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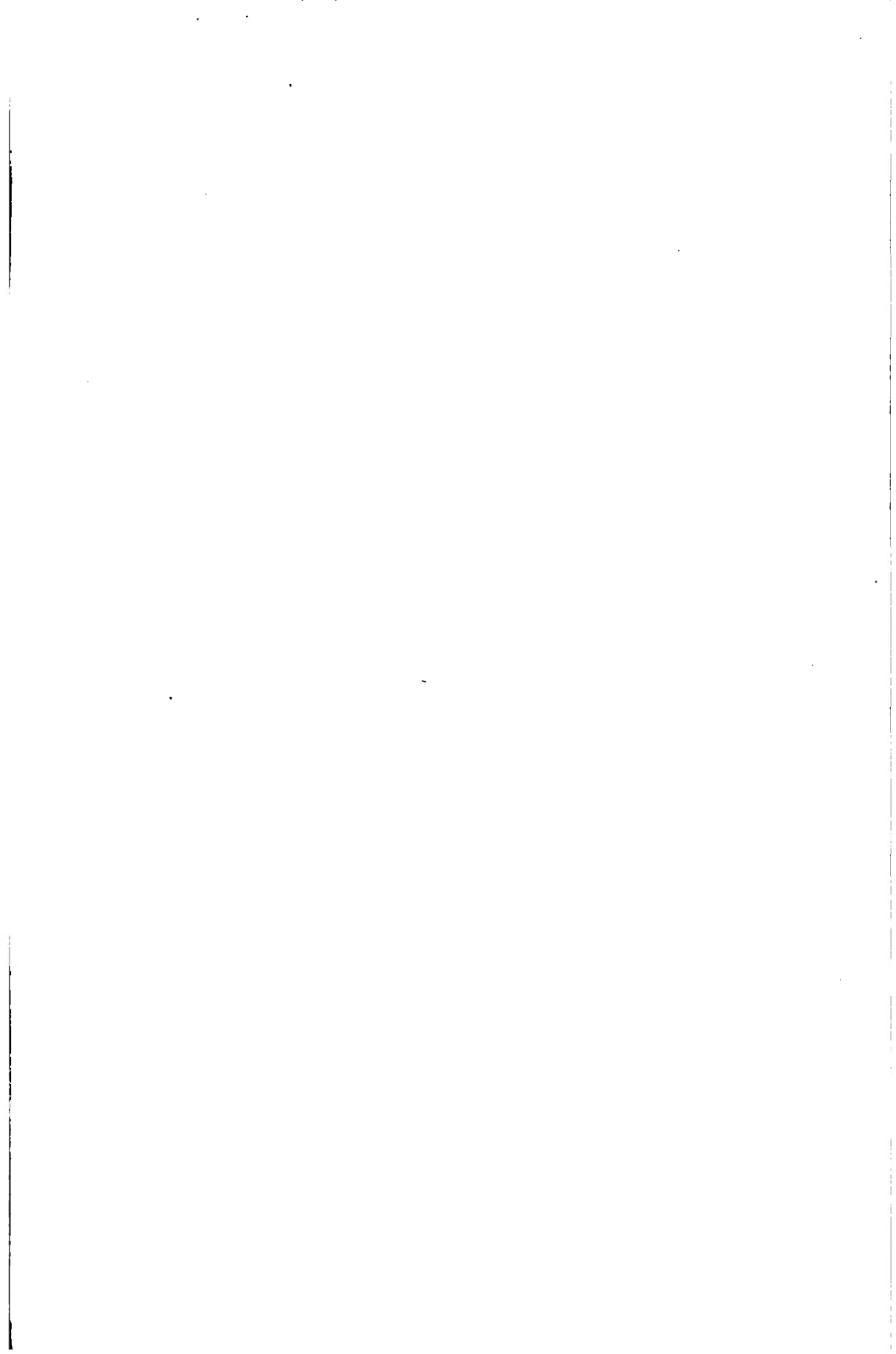
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# JOURNAL OF SOCIAL SCIENCE,

CONTAINING THE

PROCEEDINGS OF THE AMERICAN ASSOCIATION.

NUMBER XLI.

AUGUST, 1903.

BOSTON PAPERS OF 1903.

PAPERS READ IN THE DEPARTMENTS OF SOCIAL ECONOMY, HEALTH, JURISPRUDENCE, AND EDUCATION.



PUBLISHED FOR THE

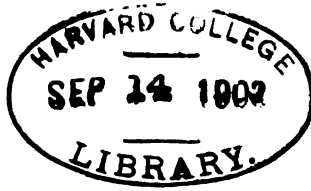
AMERICAN SOCIAL SCIENCE ASSOCIATION.

DAMRELL & UPHAM AND THE BOSTON BOOK COMPANY, BOSTON, MASS.

1903.



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*Gratis .*

EDITED BY

FREDERICK STANLEY ROOT, M.A.

GENERAL SECRETARY OF THE ASSOCIATION, 129 EAST 15TH STREET,  
NEW YORK CITY.

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## INTRODUCTION.

---

The papers included in this number of the *Journal of Social Science* comprise all of the Boston addresses of 1903. Owing to the fact that no official stenographer had been engaged for the Boston meeting, the reports of running debates are taken from the columns of the newspapers of that city; but, in most instances, such reports have been revised by the contributors to the discussion.

It may be well in this place to remind essayists once more of the *invariable rule* of the Association, that all papers engaged for the General Meeting are so secured with the understanding that they may be published in the *Journal* if deemed advisable. The members of the Council, however, are not pledged in advance to the publication of any particular paper. If writers choose to publish elsewhere, it must be with the stipulation that their papers may also be printed in the *Journal*, at the option of the Council as to date of publication. Heads of Departments are not solicitous to secure essays which, in general form and substance, have been read elsewhere before presentation at the Association Meeting.

A list of all addresses and papers will be found in the Table of Contents.

## MEMBERS OF THE ASSOCIATION.

---

All officers are *ex-officio* members of the Association, but persons serving on the Department Committees may or may not be members of the Association.

In the list herewith submitted the annual and life members are given alphabetically, and the honorary and corresponding members according to nationality. The only distinction between honorary and corresponding members is that the former reside in the United States, and the latter in foreign countries. It was voted at a meeting of the General Council that the *Journal* of the Association shall not be sent to any member who has not paid his dues for the year in which the convention is held which is reported in the *Journal*. It was subsequently voted at a meeting held at Woodmont, Conn., July 6, 1898, that the General Secretary be permitted to use his discretion in carrying into effect this resolution.

## BUSINESS OF 1903.

---

The American Social Science Association held its Forty-first Annual Meeting at Boston, Mass., beginning Thursday morning, May 14, and closing with the session of Saturday morning, May 16. The proceedings of the convention were carried on in Huntington Hall, which was kindly placed at the disposal of the Association by the Faculty of the Massachusetts Institute of Technology.

The members of the Association were called to order at 10.15 by President Straus, who, after a brief introductory address, appointed a nominating committee, consisting of Hon. Frederic J. Kingsbury, Hon. St. Clair McKelway, and William M. F. Round, Esq. At a subsequent meeting the list of officers as reported was adopted, and their names will be found on a succeeding page of the *Journal*.

In addition to the general business transacted, a regular meeting of the General Council of the Association was held in the parlor of the Brunswick Hotel on Friday afternoon, May 15. The minutes of the previous meeting were read and approved. The report of the Treasurer was received, and ordered on file.

It was then

*Voted*, That a committee be appointed to make selections from the volumes of Essays published by the American Social Science Association, and with a view to publication in book form, said committee being authorized to draw upon the Treasurer to an amount not to exceed five hundred dollars. The following were named as members of the committee: Hon. Charlton T. Lewis, Hon. Oscar S. Straus, Hon. St. Clair McKelway, and John Graham Brooks, Esq.

*Voted*, That the Heads of Departments serve as a Committee on Membership.

*Voted*, That the General Secretary be directed to publish the *Journal* within sixty days from date or as soon thereafter as possible, and that the Treasurer be directed to draw on the investment account to defray the expenses of such publication.

*Voted*, That the next meeting of the Association be held in Boston in May, at such time and place as the committee may determine.

The Council then adjourned without date.

FREDERICK STANLEY ROOT,  
*General Secretary.*





CONSTITUTION, BY-LAWS,  
LIST OF OFFICERS, MEMBERS, ETC.  
OF THE  
American Social Science Association  
AUGUST, 1903.



## CONSTITUTION.

---

I. This society shall be called the AMERICAN SOCIAL SCIENCE ASSOCIATION.

II. Its objects shall be classified in five departments: the first, of Education and Art; the second, of Health; the third, of Trade and Finance; the fourth, of Social Economy; the fifth, of Jurisprudence.

III. It shall be administered by a President, as many Vice-Presidents as may be chosen, a Treasurer, a Secretary, and a Council, charged with general supervision; five Department Committees, established by the Council, charged with the supervision of their respective departments; and such Local Committees as may be established by the Council at different points, to serve as branch associations. *The Council shall consist of President, Treasurer, Secretary, First and Second Vice-Presidents, the Chairman and Secretary of each Department, and ten Directors, with power to fill vacancies and to make their own By-laws.* The President, Vice-Presidents, Treasurer, Chairman, and Secretaries of Departments, and Directors shall be chosen annually by members of the Association, and shall hold office till their successors are chosen. The President, or in his absence a Director, shall be chairman of the Council. The Chairmen of the Local Committees shall be chosen at the pleasure of their respective committees. Whenever a Branch Association shall be organized and recognized as such by the Council, its President shall be *ex officio* one of the Vice-Presidents of the American Association, and, together with the Secretary and Treasurer, shall be entitled to all the privileges of membership in that Association. And, whenever a Local Department shall be organized and recognized as such by the Council, its Chairman shall become *ex officio* a member of the parent Association. The Chairman and Secretary of each Department, with the consent of the President of the Association, may appoint such special Department Committees as they may think best. The General Secretary shall be elected for three years, unless he resigns, or is removed by a two-thirds vote of the members present and voting in a regular meeting of the Council; and out of his compensation he may pay the salary of an Assistant Secretary, who may also be Secretary of one Department.

IV. Elections to membership shall be made by Standing Committee appointed by the Council in such manner as Council may provide. Any person so elected, and on payment of annual membership fee of five dollars, may continue a member by paying annually such further sum as may be fixed at the Annual Meeting of the Association, not exceeding ten dollars. On payment of one hundred dollars any person may become a life member, exempt from assessments. Honorary and corresponding members may be elected and exempted from the payment of assessments.

V. The Council shall have sole power to call and conduct General Meetings, and to publish the Transactions and other documents of the Association. The Department Committee shall have power to call and conduct Department Meetings.

VI. No amendment of this Constitution shall be made, except at an annual meeting, with public notice of the proposed amendment.

## BY-LAWS OF THE ASSOCIATION.

---

[NOTE.— At a meeting of the Council of the Association, held May 9, 1900, at Washington, a committee of three was appointed to revise Constitution and formulate By-laws to be considered and adopted by the Council at the earliest opportunity. That committee consisted of the Hon. S. E. Baldwin, the Hon. Francis Wayland, and the General Secretary.

At a subsequent meeting of the Council of the Association, held in New Haven, Conn., Oct. 12, 1900, this committee reported the following By-laws, which were *unanimously* adopted by the Council. Since the Constitution confers upon the Council power to enact its own By-laws, no further action by the Association is necessary.]

### ARTICLE I.

#### ORDER OF BUSINESS.

The following order of business shall be observed at all meetings of the General Council of the Association :—

- |                                  |                           |
|----------------------------------|---------------------------|
| (a) Reading of minutes.          | (d) Report of committees. |
| (b) Report of Treasurer.         | (e) Unfinished business.  |
| (c) Report of General Secretary. | (f) New business.         |

### ARTICLE II.

#### QUORUM.

The quorum of the Council at all regular and special meetings shall consist of five members, of whom three shall be of the *ex-officio* members of the Council.

### ARTICLE III.

#### VACANCIES.

SECTION 1. A committee shall be appointed on the first day of the general session of the Association to nominate officers, and such committee shall report upon the morning of the last day of the general session.

SECT. 2. The President may fill any vacancy occurring during the year in any office.

### ARTICLE IV.

#### AMENDMENTS.

The By-laws of the Association may be altered, amended, or repealed by the Council at any meeting by a two-thirds vote of the members present.

## ARTICLE V.

## TREASURER.

SECTION 1. It shall be the duty of the Treasurer to forward bills for annual dues on the first day of January of each successive year, and to meet all bills for printing, publishing, salaries, etc., on presentation of vouchers approved by President or First Vice-President, and the General Secretary.

SECT. 2. No funds shall be set apart for permanent investment without vote of Council; and all funds so set apart may be invested by the Treasurer at his discretion.

SECT. 3. The President or First Vice-President may draw on the Treasurer in favor of the General Secretary at any time for such sums, not exceeding one hundred dollars at any one time, as the President or First Vice-President may deem necessary to meet any proper expenses incident to the management of the Association or the proceedings of the Committee on Elections to Membership.

## ARTICLE VI.

## PRINTING.

SECTION 1. The selection of papers for publication in the *Journal* shall be left with the President and General Secretary, the latter serving also as editor of the *Journal*, and with the Heads of Departments. The Chairman of each Department will indicate to the General Secretary what papers, in his judgment, are available for publication in the report of proceedings.

SECT. 2. It shall be the duty of the General Secretary to print and distribute such information concerning the objects and purposes of the Association as may be useful in securing new members.

SECT. 3. It shall be the duty of the General Secretary to publish and distribute a cloth-bound copy of the annual *Journal* of the Association to each member in accordance with provisions under article referring to *Memberships*. Each essayist will be entitled to twenty-five reprints of his paper at the expense of the Association, on condition that his application is placed on file prior to the printing of his paper.

SECT. 4. If, in the judgment of the Treasurer and General Secretary, the funds of the Association will not justify publication in cloth, the current edition of the *Journal* shall appear in paper. The uniform date of publication shall be within six months of the Annual Meeting of the Association. Distribution of the *Journal* shall be effected as soon thereafter as possible.

## ARTICLE VII.

## MEMBERSHIPS.

SECTION 1. Elections to membership shall be made in accordance with provisions contained in Article IV. of the Constitution.

SECT. 2. After initial payment of assessment fee, all members in arrearages for the next following fiscal year of the Association shall not be entitled to the *Journal*. Failure to remit annual dues for two consecutive years shall result

in loss of membership in the Association. The General Secretary, however, may exercise his discretion as to the application of this rule in given cases.

## ARTICLE VIII.

### SALARIES.

The General Secretary shall be paid the amount of his salary in quarterly instalments upon the first days of October, January, April, and July, respectively; and he shall draw upon the Treasurer at his discretion such sums as may be allotted by vote of Council for clerical assistance.

# OFFICERS OF THE ASSOCIATION.

1903-1904.

*President*, JOHN GRAHAM BROOKS, Cambridge, Mass.

*Honorary President*, FRANK B. SANBORN, Concord, Mass.

*First Vice-President*, HON. OSCAR S. STRAUS, LL.D., New York City.

*Second Vice-President*, HON. FREDERICK J. KINGSBURY, Waterbury, Conn.

## DIRECTORS.

President CHARLES W. ELIOT, LL.D., Cambridge, Mass.

W. A. GILES, Esq., Chicago, Ill.

EDWARD T. POTTER, Newport, R.I.

EUGENE SMITH, Esq., New York City.

BOOKER T. WASHINGTON, Esq., Tuskegee, Ala.

SEYMOUR DEXTER, Esq., Elmira, N.Y.

HON. ST. CLAIR MCKELWAY, Brooklyn, N.Y.

WM. M. F. ROUND, Esq., Boston, Mass.

HON. C. S. HAMLIN, Boston, Mass.

COL. JACOB L. GREENE, Hartford, Conn.

## Vice-Presidents.

HON. S. E. BALDWIN, LL.D., New Haven, Conn.

HON. FRANCIS WAYLAND, LL.D., New Haven, Conn.

Pres. DANIEL C. GILMAN, LL.D., Baltimore, Md.

HON. WILLIAM T. HARRIS, LL.D., Washington, D.C.

HON. FRANK B. SANBORN, Concord, Mass.

HON. CARROLL D. WRIGHT, LL.D., Washington, D.C.

Prest. J. B. ANGELL, LL.D., Ann Arbor, Mich.

HON. A. D. WHITE, LL.D., Berlin, Germany.

HON. JOHN EATON, Washington, D.C.

Mr. GEORGE WESTINGHOUSE, Washington, D.C.

HON. JOHN W. FOSTER, LL.D., Washington, D.C.

LUCY HALL-BROWNE, M.D., Brooklyn, N.Y.

Mrs. CAROLINE H. DALL, Washington, D.C.

GRACE PECKHAM MURRAY, M.D., New York.

H. HOLBROOK CURTIS, M.D., New York.

Rev. F. G. PRABODY, D.D., Cambridge, Mass.

Prof. GEORGE L. RAYMOND, L.H.D., Princeton, N.J.

Mrs. VIRGINIA B. MCKELWAY, Brooklyn, N.Y.

C. A. WOODS, Marion, S.C.

Rev. JOSEPH ANDERSON, D.D., Waterbury, Conn.

*General Secretary*, FREDERICK STANLEY ROOT, M.A., 129 E. 15th St., New York.

*Treasurer*, W. C. LeGENDEE, 59 Wall St., New York.

## Department Officers.

I. *Education and Art*.—Mr. S. T. DUTTON, New York City, *Chairman*; Mr. JAMES P. MUNROE, Boston, Mass., *Secretary*.

II. *Health*.—SAMUEL H. DURGIN, M.D., Boston, Mass., *Chairman*; Dr. HIBBERT W. HILL, Boston, Mass., *Secretary*.

III. *Social Economy*.—JOHN GRAHAM BROOKS, Cambridge, Mass., *Chairman*; HORACE G. WADLIN, Boston, Mass., *Secretary*.

IV. *Jurisprudence*.—HON. CHARLES BULKLEY HUBBELL, New York City, *Chairman*; Prof. ISAAC FRANKLIN RUSSELL, New York City, *Secretary*.



## LIFE MEMBERS.

---

Extract from Constitution: "On payment of one hundred dollars any person may become a Life Member, exempt from assessments."

Angell, Mr. George T., 19 Milk St., Boston, Mass.	Letchworth, Mr. W. P., Portageville, N.Y.
Baldwin, Hon. S. E., LL.D., New Haven, Conn.	Libbey, Mr. Jonas M., New York City.
Barnard, Mr. James M., 140 Beacon St., Boston, Mass.	Sanborn, Hon. Frank B., Concord, Mass.
Barnard, Mrs. James M., 140 Beacon St., Boston, Mass.	Sanborn, Mrs. Louisa L., Concord, Mass.
Blatchford, Mr. J. S., Boston, Mass.	Smith, Prof. Goldwin, LL.D., Toronto, Canada.
Bradford, Mr. Gamaliel, 502 Beacon St., Boston, Mass.	Stokes, Mr. Anson Phelps, 45 Cedar St., New York City.
*Cole, Mr. W. A., New York City.	Stokes, Mr. I. N. Phelps, 47 Cedar St., New York City.
*Dike, Mr. Henry M., New York City.	Stokes, Mr. Thomas, 47 Cedar St., New York City.
Dodge, Mr. Charles C., 33 Broadway, New York City.	Straus, Hon. Oscar S., 42 Warren St., New York City.
Dodge, William E., Jr., 99 John St., New York City.	Villard, Mrs. Henry, 145 W. 38th St., New York City.
Eliot, Mrs. Samuel, Boston, Mass.	Ward, Mr. J. Q. A., 119 W. 52d St., New York City.
Endicott, William, Jr., Boston, Mass.	Ware, Mr. William R., 130 E. 27th St., New York City.
*Farwell, Mrs. A. G., Boston, Mass.	Wayland, Prof. Francis, LL.D., New Haven, Conn.
Hermann, Mrs. H., 59 W. 56th St., New York City.	White, Hon. Andrew Dickson, LL.D., Berlin, Germany.
Hewitt, Hon. Abram S., 9 Lexington Ave., New York City.	Wolcott, Miss Ella L., Elmira, N.Y.
Hoyt, Hon. J. W., The "Victoria," Washington, D.C.	Young, Mr. J. Edward, 130 William St., New York City.
James, Hon. D. Willis, 45 Wall St., New York City.	
*Lawson, Rev. Albert G., Camden, N.J.	

[Names marked with (\*) cannot be found by post-office officials.]

## HONORARY AND CORRESPONDING MEMBERS.

---

### *In America.*

Prof. J. Irving Manatt, Providence, R.I.  
Major-gen. O. O. Howard, 150 Nassau St., New York City.  
Edmund A. Meredith, Esq., care The Toronto Income Trust Co., Yonge St., Toronto, Can.  
Hon. Domingo F. Sarmiento, Buenos Ayres.

### *In Great Britain and Ireland.*

Sir Walter Crofton, The Close, Winchester.  
Lord Radstock, London.  
Miss Frances Power Cobbe, Hen-gorst, Dolgelly, Wales.  
Henry Dunning McLeod, Esq., Oxford and Cambridge Club, London.  
Alfred Field, Esq., Birmingham.  
Thomas H. Barker, Esq., Manchester.  
Henry W. Ackland, M.D., F.R.S., Oxford.  
Miss Louisa Innes Lundsden, Glenbogie, Rhynie, Scotland.  
Herbert Spencer, Esq., London.  
Miss J. Frances Dove, Wycombe Abbey, Bucks, England.  
Lord Hobhouse, 15 Bruton Street, London.

Prof. James Bryce, M.P., London.  
Geoffrey Drage, Esq., London.  
Moncure D. Conway, Esq., London.

### *In France.*

M. August Langel, 12 Rue de la d'Anjou, Paris.  
M. Émile Cacheux, 25 Quai St., Michel, Paris.  
\*M. Émile Trelat, Paris.  
M. F. Buisson, Bd. 163 Montparnasse, Paris.  
M. Émil Levasseur, 24 Rue Monsieur le Prince, Paris.  
M. Arthur Raffalovich, 19 Avenue Hoche, Paris.  
M. Pierre Claudio Jannet, 22 Rue Oudinot, Paris.

### *In Italy.*

Signor Martino Beltrani-Scalia, Rome.  
Prof. C. F. Gabba, Pisa.  
\*Prof. Alberto de Errea, Cavaliere della Corna d' Italia, Venice.

### *In Belgium.*

\*M. P. Buls, Brussels.  
M. Van de Rest, Brussels.

[The names on this list marked with a (\*) are those of persons who cannot be found by post-office officials.]

## LIST OF ANNUAL MEMBERS, 1903.

[NOTE.— With reference to this enrollment some explanations are essential, and they are as follows:—

The "National Institute of Arts and Letters," organized under the auspices of the American Social Science Association, but now an independent body, still retains a certain connection with the Association in the form of Associate Memberships. The following clauses from vote passed at the Saratoga meeting of the Association define the existing status:—

*Voted*, That the members of the Institute be *ipso facto* associate members of the Association in return for the courtesy of the Institute in making members of the Association associate members of the Institute.

In the list subjoined, such associate members are marked with a *star*. In the matter of academic titles, such only are given as are known. Members are earnestly solicited to communicate with the editor at once respecting academic titles, and also to correct any errors which may be found upon the roll. All resignations should also be promptly reported to the permanent address of the General Secretary, 129 E. 15th St., New York City.]

- |  |  |
|--|--|
| *Abbey, Edwin A., Fairford, England.                             | Allen, Hon. John B., 505 Harvard Ave., Seattle, Wash.    |
| Abrahams, A., 800 St. Marks Ave., Brooklyn.                      | Allen, S. H., 501 Jackson St., Topeka, Kan.              |
| Adams, B., 23 Court St., Boston.                                 | Allen, Thomas, 12 Commonwealth Ave., Boston.             |
| Adams, Elbridge L., 911 Wilder Bldg., Rochester, N.Y.            | Allen, Miss Viola, 27 W. 93d St., New York City.         |
| *Adams, Henry, Washington, D.C.                                  | Allen, William A., Madison, Neb.                         |
| *Adams, Herbert, LL.D., Johns Hopkins University, Baltimore, Md. | Allison, Hon. W. B., 1124 N St., Washington, D.C.        |
| Adams, Oscar Fay, 41 Marlboro St., Boston.                       | Ames, Gen. Adelbert, Lowell, Mass.                       |
| Addam, Miss Jane, Hull House, Chicago.                           | Ames, James Barr, Cambridge, Mass.                       |
| Ade, George, the <i>Record</i> , Chicago.                        | Amory, Robert, M.D., 279 Beacon St., Boston.             |
| Agar, John E., 31 Nassau St., New York.                          | Anderson, E. Ellery, 27 William St., New York.           |
| Aiken, W. M., St. James Building, Broadway, New York City.       | Anderson, Rev. Joseph, D.D., Waterbury, Conn.            |
| *Alden, Henry M., care of Harper & Brothers, New York.           | Anderson, Warren E., Pensacola, Fla.                     |
| Aldrich, Charles F., Home Insurance Building, Chicago.           | Anderson, Winslow, M.D., 1220 Sutton St., San Francisco. |
| Aldrich, Nelson W., Providence, R.I.                             | Andrews, Charles, Syracuse, N.Y.                         |
| *Aldrich, Thomas Bailey, Boston, Mass.                           | Andrews, Hon. Charles B., LL.D., Litchfield, Conn.       |
| Aldridge, George W., Rochester, N.Y.                             | Angell, Henry C., 16 Beacon St., Boston, Mass.           |
| *Alexander, John W., 120 Broadway, New York City.                | Anthony, Prof. Wm. A., Cooper Union, New York.           |
| *Allen, James Lane, 66 5th Ave., New York.                       | Archer, Frederick, Carnegie Institute, Pittsburg, Pa.    |

- Ashley, Prof. Clarence D., LL.D.,  
N.Y. Un. Law School, New York.
- Ashley, George Hall, 15 W. 22d St.,  
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- Ashmore, George C., M.D., 794 Re-  
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- Atwood, Charles E., M.D., "Bloom-  
ingdale," White Plains, N.Y.
- Atwood, J. M., 159 Meigs St., Roch-  
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- Audsley, G. A., Bowling Green Office,  
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Brooklyn.
- Avery, A. C., Morganton, N.C.
- Avery, Edward H., Auburn, N.Y.
- Ayer, Benjamin F., 99 Pine St.,  
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- Ayers, Howard, University of Cincin-  
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- Bacon, Edwin M., 6 Beacon St.,  
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- Bacon, Henry, 12 bis Rue Vineuse,  
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- Bacon, Robert, 33 Wall St., New  
York City.
- Baker, David S., 170 Westminster Pl.,  
Providence, R.I.
- Baker, Prof. George S., 190 Brattle  
St., Cambridge.
- Baker, Hon. John H., Indianapolis,  
Ind.
- Bakewell, Prof. Charles Montague,  
Bryn Mawr, Pa.
- \*Baldwin, Hon. S. E., LL.D., New  
Haven, Conn.
- Baldwin, William H., Jr., 32 Nassau  
St., New York City.
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## **I. DEPARTMENT OF SOCIAL ECONOMY.**

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### **I. SOME RESPONSIBILITIES OF CAPITALISTIC ORGANIZATIONS.**

BY GEORGE W. ANDERSON, ESQ., OF THE SUFFOLK BAR.

[Read Thursday morning, May 14.]

In considering some of the responsibilities of capitalistic organizations, it is not for a moment to be overlooked that the career of the labor organizations has not been marked by any such love of wisdom, justice, and fair dealing as to evoke our moral enthusiasm. Their attitude in arbitrarily and unjustly excluding from opportunity to labor all who will not become members of their organizations and submit to their regulations; in tyrannically boycotting any work undertaken to be carried on by non-union or what they call "unfair labor"; in limiting the opportunities for apprentices to learn the trades, and thus checking that wholesome industrial development which finds its basis in the proper training of youth; in resorting to brickbats, bludgeons, and even dynamite, at times of strikes, in order to prevent non-union labor from taking the place of strikers; in opposing the introduction of, and even destroying, labor-saving machinery; and, in too many cases, of deliberately breaking the contracts which the organizations have made for a scale of wages,—are but illustrations of the general lack of legal and ethical responsibility which has for many years marked the contest they have carried on.

Nor have the labor organizations any moral standing to denounce trusts, for their movement is as distinctly a combination or trust as is the capitalistic movement. The only ground upon which the organizers of labor may denounce capital, simply for organizing, is that the labor movement is subsequent in time and an absolutely necessary result of the prior organization of capital. The two movements are alike



in motive and object. If organization is legitimate for capital, it is legitimate for labor: if it is legitimate for labor, it is legitimate for capital. The point is that neither has any standing for condemning the other simply because of the fact of organization.

In the contest, as it is now carried on, between these two opposing forces, often with a violence which gives it the aspect of a real warfare, it is obvious that there are at least two main desiderata:—

First, that the parties to the contest should become so nearly equal in real and apparent power that each may come to a respect for the other (for respect is closely akin to fear in the last analysis), to the end that an equilibrium approximating justice may result. As human nature now is, and is likely to be for some time to come, the strong are seldom just to the weak. It is only the reasonably strong that get approximate justice. The organization of labor is an absolute condition precedent, under present conditions, to any sound social and industrial progress. To oppose that organization, to attempt to prevent it by legislation, or to denounce it in terms recently used at the Manufacturers' Association at New Orleans, is both futile and foolish. No greater disaster could occur to this country to-day than the disorganization of labor,—the destruction of the labor organizations. John Mitchell is one of the great conservative forces. George F. Baer is the real opponent of order and progress.

The second desideratum is that there should be an increased respect for law and for justice on the part of both Labor and Capital, that our civilization should not be merely superficial, and our justice a sort of unstable equilibrium between violent, contending forces, but that both Capital and Labor should increasingly recognize the obligation incumbent upon every human being to do his fair share of the world's work, and to receive only his fair share of the good things of this world. Until our political, social, and industrial organization is founded in ethical conceptions approximately sound and controlling, our condition will be that of a limited chaos: we may have a despotism of capital tempered by assassination, actual or metaphorical, on the part of labor; or we may have a despotism of labor organizations tempered by capitalistic bribery

of legislatures, city governments, officials, and perhaps even of the courts.

The final appeal must be to justice. This is a moral universe. There can be no sound and conservative progress except along the line of just laws justly enforced.

Capital has in this contest an infinitely greater reason for desiring law to be respected and obeyed than has Labor. This is so because to-day Capital founds its enormous power directly upon a basis of law,—the law which permits incorporation, and incorporation with practically unlimited capitalization. Repeal every corporation act of this country, or even require every corporation organized to pay in its entire capital stock in cash or its equivalent in tangible property, as does our present Massachusetts corporation law, and you take from Capital three-fourths of its present power. But law, statute or constitutional, finds its ultimate basis in the ballot box,—in the choice, supposedly free, of the great mass of those exploited by and through the law they themselves create. In other words, Labor in this country has within its power to destroy Capital. Property exists at the sufferance of the ballot-box. It behooves Capital to be careful how it teaches injustice to those who control the ballot-box.

In weighing the power of the two contending forces, nothing is more foolish and misleading, even when not used as an attempt to deceive, than a comparison of wages with interest and dividend rates, for the purpose of determining the share received by Capital and the share received by Labor in the joint product of both. Interest and dividend rates are hardly indicative of the power really exercised to-day by Capital in the industrial, social, and political world. In fact, as Capital becomes more absolutely dominant and appropriates to itself under our present system a larger part of our natural resources and of the joint product of Labor and Capital based upon those natural resources, safe investment for small amounts of capital becomes more difficult, and interest rates accordingly drop. The tearful widow and orphan, held up in legislatures and courts as getting so small a return upon their small accumulations, receive their poor return, not because a larger part is going in wages, but because the organizers of monopolies are so using their capital in the manipulation

and control of business as to take to themselves the larger part of the product. Capital is to-day dynamic, not static. Its real power is not to be measured by interest and dividend rates, but by its use in the control of industry, in the manipulation of stocks, in which is vested under our system of law a potency mysterious and unfathomable to the many, and in the control of legislation.

It does not at all follow that because Capital is increasing its now enormous power by and through our system of law, as it now is, that the remedy is to be found in any such legislation as the Sherman Act.

Of course, we all know that this law was never enacted for the purpose of being enforced. It was on the statute books more than a dozen years, practically unenforced, through a period during which we had both Democratic and Republican administrations, both perhaps equally under the domination of capitalistic influence. The recent decision under this act has shown that it may be a political weapon of enormous potency; and, under the last amendment by Congress, it is very clear that there is now vested in the hands of the politicians of the dominant party a means of obtaining campaign funds such as was never dreamed of before.

It is a law far more likely to be abused than used, affording infinite opportunity for blackmail, and offering no real remedy for the evils from which we are really suffering. It may avail for political purposes and to injure business. It will not avail to reinstate the reign of competition. If executed at all, its execution will be spasmodic, unequal, unjust, like the execution of the prohibitory liquor law in most States. The blackmail of the Tammany police will sink into insignificance beside the blackmail that will be levied if the Sherman Act and other similar legislation are put into real operation.

No law or movement directed against the organization of Capital, simply because it is an organization, can possibly succeed. The industrial trend toward organization is as certain and inevitable as the trend of the waters toward the great river, and thence into the ocean. No dam can stem the current.

Let us briefly consider some of the aspects of monopoly as we now have it.

## MONOPOLIES IN NATURAL RESOURCES.

Under our law permitting the private ownership, not only of the surface of the land, but of all minerals and metals beneath the surface, the coal and iron supply of the country will soon be entirely under monopoly control. The implied claim of the United States Steel Company, when it offers its stock and bonds for sale, falls little short of asking the public to buy those securities on the faith of that corporation's having so nearly a control over the iron supply of the country as to enable it to place any value it pleases on its holdings of land and mineral rights. Even if this implied claim is now somewhat of an exaggeration, the nature of the business and the enormous power exercised by the interests that have created that enterprise are sufficient to justify the statement that there now exists the potentiality of such monopoly.

The condition of the ownership and control of the anthracite coal supply is just cause for revolutionary sentiments and activities. 96.29 per cent. of the anthracite deposits are owned or controlled by the transportation companies engaged in handling this coal. (See Report Anthracite Coal Strike Commission, 1903, p. 22.) Here is one of nature's great gifts to mankind, upon the use of which the health and comfort of most of us are dependent, cabined, cribbed, cornered, and confined, so that the few may, and do, assess upon the many a tax as groundless in justice and fair dealing as the exactions of the Turkish tax-farmer, to whose tender mercies the people of a whole province is turned over, with legal process to take from them what he will. And this capitalistic organization, not content with availing itself of the absurd and unjust law that has permitted such a monopoly to any corporation or combination of corporations—except railroad companies—has, in the teeth of express constitutional and statutory provisions forbidding it, been effected by our public highway corporations. What a lesson in lawlessness, in practical anarchy, in greedy tyranny! The papers of this May 9, 1903, contain a statement to the effect that a labor organization in Haverhill has "prohibited manufacturers from teaching new men to turn shoes," in order to maintain the union's corner of this kind of labor. Nothing could be more anti-social, more tyrannical.

nical, more unjustifiable. Has capital any *locus standi* in justice to complain of this tyranny?

### THE TRANSPORTATION MONOPOLY.

Comparatively few people now deny that competition ought never to have been accepted as a means of regulating railroad rates. It is now generally recognized that the railroad business is, and in its nature ought to be, a regulated monopoly. But the vice of combination among railroads is found, not in the fact that it is a combination, but in that the combination is always a stock-watering enterprise, having as its main object not the elimination of the wastes of competition, but the creation and sale of stocks and bonds representing purely the power of charging extortionate rates. The "mergers" are bad because in the process of merging the whole becomes greater than the sum of all the parts, and because the public are called upon to pay for this anti-axiomatic increase. The extent to which this form of exploitation has gone is incredible until one tries to collate and analyze the figures.

Every one of us is daily taxed for the benefit of those promoters of railroad combinations as truly as we are taxed for police protection or for schools.

Infinitely worse than the stock-watering mergers is the inequality of rates,—the rebate system,—through which the Standard Oil Company established its monopoly. That all citizens of a free country are not entitled to equal use of the public highways is a proposition too absurd to discuss. That charitable endowments in large numbers are now being established from the wealth created by this sort of exploitation is but another evidence of our infinite capacity for hypocrisy. Robin Hood was the great exemplar of our modern founders of charitable endowments.

Can Capital claim that in its use of its control of our public highway corporations it has met its moral responsibilities, and that Labor cannot justly use its voting power in favor of State ownership upon the basis of the cost of reduplication?

The evils of State ownership, that we know not of, will not much longer terrorize us, unless saner counsels prevail among our railroad manipulators.

## TRUSTS.

Passing from monopolies in gifts of nature and in public service corporations, we come to what are popularly known as "Trusts."

The main objection to these combinations is found, not in the fact that they are combinations, but in their enormous over-capitalization and in the use that is made of that over-capitalization. Generally, three things besides property and good will of the business are capitalized.

(a) The saving of the waste of competition, such as less travelling salesmen, less for advertising, better regulation of credits, conformation of supply to demand, etc. This is a real economy; and it may be argued, at least plausibly, that the capitalists who bring about a combination between various competing plants, thus making these savings possible, without either raising prices to the consumer or lowering the wages of the employees, are entitled, as a reward for their foresight and enterprise, to capitalize in the form of corporations and to sell to the investing public, securities, interest and dividends upon which may reasonably be expected to be earned and paid by means of these savings. It is not at all clear that the promoters of these savings are entitled to the entire benefit derived therefrom, and that in a proper organization of society the employed and consuming classes should not share to some appreciable degree in the savings thus made possible. But, even if this is so, it constitutes the least of the valid objections to the modern combination.

(b) Besides the saving of these wastes of competition, there are certain economic benefits derived from the fact of combination which are capitalized, and perhaps legitimately capitalized, such as: ability to buy in large quantities, and therefore more cheaply; more perfect organization and a saving in the salaries of higher officials; ability to handle large orders, to sell in large quantities, and therefore at a smaller percentage of profit; the saving of transportation by shipping from the plant nearest in location to the consumer; the utilization of what in smaller enterprises are waste products; the opportunity for experimentation which comes

from a control of different plants in different localities; the use of abundant capital; a specialization of labor. These also are real economies, advantageous to the public as a whole, provided the results are properly distributed.

To illustrate by figures. Suppose you have a lot of steel manufacturing plants or leather manufacturing plants, situated in different parts of the country, the fair aggregate cost of which is \$100,000,000, earning from 5 per cent. to 10 per cent. on the capital involved, while operating as separate plants. It may well be that, operated as a single combination, the same plants, without either raising prices or lowering wages, may produce and distribute an equal amount of product, and have as net earnings \$5,000,000 more per annum than under the old competitive system. This annual earning will capitalize for at least \$50,000,000, which may be plausibly argued to be a legitimate reward to those whose enterprise and business grasp have made the combination possible.

(c) But capitalists have not stopped in their career of capitalizing the benefits of combination and in their use of corporate franchises, within the above designated limits. They have gone much further, and have capitalized supposed increased profits based not upon any economy of production, but upon a supposed monopoly control of the market, which means always one of two things:—

(1) An actual, if not nominal, reduction of wages, so that the employed class are really getting a less actual share of the product; or

(2) An increase in price to the consumer.

This is the capitalization of monopoly,—the capitalization of the power of extortion. It is the elimination of the check in behalf of fair prices which we have always been taught to believe found its main if not only source in competition. Hundreds of millions of stocks and bonds have been issued by corporations during the last seven years representing absolutely nothing but this power of extortion.

In connection with the flotation of this enormous mass of securities, it is interesting to note a few aspects of the currency question.

The Democratic campaign of 1896 in behalf of free silver was intended and understood to be a distinct anti-capitalistic

campaign. The Democratic programme involved three intelligible propositions:—

(a) That a shrinking currency and dropping prices gave the creditor an unjust advantage over the debtor class, and tended to concentrate wealth in the hands of the few; or, conversely, an increasing currency would quicken business, relieve debtors and mortgagors, and tend toward a more equitable distribution of wealth.

(b) It was asserted that it was impracticable to provide an elastic currency, increasing as business demands increase, upon the gold basis alone; that there was not gold enough to provide basis for a sufficient currency.

(c) That bimetallism was therefore the only method by which a further heaping up of wealth in the hands of the few could be prevented.

To these propositions the Republicans, besides putting in a general denial, answered,—

1. That there was no stringency of currency, and that an increase in the amount of currency would have no tendency to quicken business or to bring what we ordinarily call prosperity; that the per capita circulation of currency was adequate; and

2. That any attempt to inflate the currency, except by an increase in the amount of gold, would certainly bring distress and destruction.

The Republicans won. With true Machiavellian statesmanship they proceeded by every known device, except bimetallism, to increase the circulating medium until it is now more than 35 per cent. per capita greater than it was in 1896.

The results are:—

(a) As prophesied by the Democrats, business has increased enormously in volume; "prosperity"—at least superficial prosperity—has come; the debtor—mortgagor—class has been greatly relieved, especially throughout the agricultural districts, where they have been assisted also by a series of remarkable crops. But

(b) The employed classes, except that more of them are employed, since 1896 have seen their wages actually reduced in purchasing power.



(c) Instead of this increased prosperity's resulting in a more equitable division of the joint product, the increase in volume of the currency has, by the use made of it by the trusts, worked out a great additional advantage to the capitalistic classes who in 1896 so violently contended that we wanted no increase in circulating medium.

As results, the cost of living is now greater than at any time since the years just succeeding the Civil War; actual wages are lower than for many years; the wage-earning class are more dissatisfied probably than ever before; the capitalists, who denounced bimetallism as the worst sort of inflation heresy, are trying to relieve the overloaded Wall Street stomach of its undigested *in*securities by providing a new currency inflation measure along the lines of the wildcat banking enterprises of the '40's. Wall Street, which in 1896 said the then supply of gold was adequate for all currency purposes, now wants a currency inflation in comparison with which free silver would be as nothing.

There are many other incidental results of this development of trusts which cannot be overlooked.

By this means the actual control of business has been taken from the trained business men, who have grown up in these various industries, and put into the hands of promoters and stock market manipulators. When you have a corporation, say, with a capitalization of \$100,000,000, you find that capitalization represented by:

(a) Probably \$50,000,000 of bonds bearing a reasonable rate of interest, and sold to the investing public, none of whom have any voice or control in the management of the business itself;

(b) By \$10,000,000 or \$20,000,000 of preferred stock, which sometimes does, and sometimes does not, share by vote in the control of the business;

(c) By a block of common stock representing really nothing but "water," or "capitalized monopoly," the football of the market, kept originally in the hands of the promoters, bought in or controlled in sufficient quantities before the annual elections, so that the boards of directors are selected not by the real parties in interest, but by the manipulators, who thus get entire control of the book-keeping, and may

put out reports bulling or bearing the stock according to their own desires. They find their real interest and profit, not in dividends which may possibly be earned upon their stock, but in buying and selling it, or otherwise manipulating it for new combinations. The result is that the real control of business has become enormously centralized into the hands of persons who know little or nothing about the actual business carried on, who have no personal contact with or interest in either the vast majority of those employed in the industry or those whose investments constitute the real working capital of the industry. This control is worse than that of non-resident landlords. It is selfish, heartless, greedy, inhuman; and this not because the persons exercising this enormous power are at bottom really worse than other people, but because the system which they have thus constituted gives free reign to the worst elements in human nature, with none of the checks which under ordinary circumstances soften and civilize and humanize most human relations.

It cannot be expected that the employed class will receive or expect fair, just, and human treatment from an employing class so entirely cut loose from every bond of human sympathy, using their power as inevitably such power will be used under such conditions. Capital is setting no example of fair and just dealing with labor under these new conditions. Formerly, even when the great majority of employers were brought into close and individual contact with their employees, we find that nearly every movement in behalf of ameliorating the condition of labor met the violent opposition of the employers. Child labor was justified; factory inspection bitterly fought; legal limitation upon the hours of labor contested to the last ditch; employers' liability acts forced through the legislature only by the terror of the labor vote; labor organizations—"collective bargaining"—recognized only after long and bitter struggles, and then only occasionally and in the least possible degree. With the lessons of such a history impressed upon them, what are the laboring classes to expect from the employer of the future, when that employer lives not even in a mansion upon the hill overlooking the factory, with his office in the factory, but lives in New York, Chicago, Philadelphia, or Boston, and has his office

"down town" and exercises his activity in the stock market? If, under these circumstances, the employee is not too dull to merit title to American citizenship, he will rapidly and completely learn the lesson of organization and the power that comes from organization; and he will use that power, found mainly at the ballot-box, perhaps with no more limitations found in conscience or fair dealing than have been used against him by the power of capital.

The "community of interest idea" has been defined as "the right to do what one wills with one's own." The words "one's *own*" depend upon the law which makes possible the existence of private property. It is very obvious that, if the laboring classes combine, and choose to use as a combination, the ballot-box, they may radically change, or even destroy, property rights, not only as they are, but as they ought to be.

If labor follows the example set, and does what it will with "its own,"—the ballot-box,—it will be a sorry day for the originator of the "community of interest" idea.

For the past generation the legislation of this country has been mainly controlled by capital. Our national tax laws have been dictated by capital, not for the purpose of raising revenue, but for the purpose of limiting or destroying competition, and for giving, generally in lieu of contributions to the campaign funds of one or both of the chief political parties, private privileges and emoluments as a result of public law. This has not conduced to respect for law or for the process of law-making.

In not a few of our States the sale of legislation is a regular business carried on by the bosses of the dominant party, as well established and recognized, and far more lucrative, than the practice of law or medicine. As an illustration, it came within a few weeks to my knowledge that in one New England State a non-resident desired legislation to put a street through a part of his property, so that it might be profitably developed. To obtain such legislation, he applied, not to the government of the city in which his land lies, not to the legislature, on the ground that the proposed law was a proper public measure; but he had the desired bill drawn by his lawyer, paid \$3,000 to the boss of the dominant party

in that State, and the bill became law. The corruption of the State legislatures in many of our States is so notorious and wide-spread that no detailed statement of it is necessary to bring the facts before any body of intelligent Americans. In justice, however, a *caveat* should be filed to the effect that it is probably not true that the majority of legislators in the States in which this corruption is most rife do themselves receive actual bribes for their votes. They are mostly well-meaning and, within limitations, entirely honest men. Their votes are controlled, however, by party machinery; and the party machinery is in turn controlled by capitalists and promoters, who make campaign contributions or pay into the pockets of the party bosses money as compensation for the control of the party votes by these bosses. It hardly need be observed that the beginning of this sort of corruption was found in the greed of capital in obtaining monopoly of State franchises and other legislation, by means of which they desired to exploit the public.

Of course, this system has resulted not merely in unjust law, making such exploitation possible, not merely in general loss of respect for law; but it has also degraded our legislators by making, in many instances, the holding of public office not an honor, but a disgrace, and by inducing "strikers," blackmailers, and corruptionists generally to go into politics for the purpose not only of receiving bribes as compensation for their votes for improper legislation, but of demanding pay for refraining from obstructing just and proper legislation. A corrupt gas or railroad fight in this year's legislature will inevitably produce in next year's legislature a crop of dirty, blackmailing legislators waiting to be hired to vote even for an appropriation to pay the honest debts of the Commonwealth. The ordinary, honest citizen, who has a moderate desire to render a public service and to enjoy a public honor, has no chance of political preferment in the wild and filthy scramble which results when political office becomes a common and notorious means of private gain. If it be a fact that our city governments and many of our State governments are in large part made up of *unrepresentative* men, that fact finds its origin in the greedy and conscienceless attempts of capitalists to obtain for themselves unjust

laws, and their willingness to share some part of the profits they expect to make by means of those laws with the legislators and officials whose abuse of power gives them their opportunity. While such a state of affairs exists, it is useless to discuss theoretical anarchy: this is practical anarchy; and this is the example that Capital has set to Labor. It is one of the present responsibilities of capitalistic organizations to undo the evil they have wrought,—to teach the voters that the powers of the ballot-box and of the legislative hall are to be held and exercised as a sacred trust for the benefit of the community as a whole, and that any other use is but a form of social and political suicide; that the real “community of interest” idea is *not* that “one may do what one wills with” what one calls “one’s own,” but that “one may do what one ought justly and fairly to do with the property and powers which have come to him as a result of the fact that he has inherited an interest in the ‘community’ of effort and of law,” without which “community” his own acquisitions and achievements would avail little or nothing.

The social and political unrest is intense. If Capital fails to recognize the necessity of just laws, respected and obeyed, it may expect little mercy at the hands of its adversaries when they discover their real power. This responsibility cannot be met by the founding of hospitals, libraries, and universities with a select and pet set of professors, who shall “crook the pregnant hinges of the knee that thrift may follow” their intellectual fawning; it cannot be met even by a control of the Associated Press despatches and of a large share of the newspapers of the country; it cannot be met by wild and lurid denunciations of the obvious abuses and evils of labor organizations as they seek to perfect their organization and feel their way toward a realization of their own power, nor by harping on the old cant phrases concerning “socialism,” “interference with the rights of private property,” and “destruction of vested interests.” It can only be met by a fair and candid discussion which shall show where right and justice really lie, and by an open and expressed desire to make our system of law as sensitive and responsible as possible to the actual rights of all the persons subject to the mandates of that law.

Except among the farmers, competition has either been eliminated or is in rapid process of elimination. Competition was the foundation of our old political economy. Its failure as a regulating force is little less than complete. The foundation principles of the old political economy have crumbled away until the structure built upon them is as grotesque and unreal as the Miltonic conception of the universe.

Intellectually, at least, we are in chaos. We know not whither we are tending. We cannot see what in the future is to be the sufficient and operative check upon human greed. But this makes all the clearer the necessity of proceeding conservatively and tentatively, of bringing the ethical test to bear upon every relation of life.

The persons who are in control of the great capitalistic organizations of the country to-day are trustees of an enormous power, industrial, political, and social. If they fail to exercise that power soberly, wisely, conservatively, if they drive with a drunken hand, as not a few of them are now doing, the results are unpleasant to contemplate.

It is no part of my present undertaking to indulge in prophecy or to discuss socialism. If socialism be really something more than an epithet, it means the proposition that the business of the country should be put under the management of public officials, responsible, nominally at least, to organic society for the faithful performance of their duties. As business now is, or is rapidly becoming, it is managed by sets of corporation officials, responsible only to cliques of stock manipulators, who control the annual elections of boards of directors. The use which some of these officials are making of their power is doing more to promote socialism than all the advocacy of the theorists. If socialism comes, the main responsibility for its coming will rest upon the capitalistic organizations.

## 2. THE INCORPORATION OF TRADES-UNIONS.

BY LOUIS D. BRANDEIS, OF THE SUFFOLK BAR.

[Abstract of address delivered Thursday morning, May 14.]

Most Americans sympathize fully with the efforts of workingmen to better their condition. Labor unions have contributed greatly to this end. They have been largely instrumental in securing reasonable hours of labor and proper conditions of work, in raising materially the scale of wages, and in protecting women and children from industrial oppression. In doing this, they have contributed also to the general welfare of the community, since the conditions under which so large a proportion of our fellow-citizens live and work must determine in great measure the future of our country for good or for evil.

The struggle of workingmen to attain these ends has been attended at times by intolerable acts of violence, by intimidation, by oppression, or by other forms of lawlessness. Such conduct the American people, with their inborn respect for law, their desire for fair play, and their common sense, strongly resent. By such conduct the sympathy of the public is quickly forfeited; and it has been the general experience in this country, in respect at least to the great strikes, that success or failure depended mainly upon whether public opinion was with or against the strikers.

The growth and success of labor unions, therefore, as well as their usefulness to the community at large, would be much advanced by any measures which tend to make them more deliberate, less arbitrary, and more patient with the trammels of a civilized community. The employer and the community also require this protection. Incorporation would serve in some measure to the attainment of this end.

When, in the course of a strike, illegal acts are committed, such as acts of violence or of undue oppression, the individual committing the wrong is, of course, legally liable. If the act is a crime, the perpetrator may be arrested and pun-

ished; if it is a mere trespass, he may be made to pay damages, if he is financially responsible; and, if the recovery of damages appears not to afford an adequate remedy, an injunction against the wrongful acts may be granted by a court of equity. If the injunction is disobeyed, the defendant may be imprisoned for contempt.

Now it has been a common belief in this country that, while the individual may be thus proceeded against in any of these ways, the labor union as such, being unincorporated,—that is, being a mere voluntary association,—cannot be made legally responsible for its acts.

The rules of law established by the courts of this country have, it is true, at no time afforded a justification for this opinion. A union, although a voluntary unincorporated association, is legally responsible for its acts in much the same way that an individual, a partnership, or a corporation, is responsible. If a union, through its constituted agents, commits a wrong or is guilty of violence or of illegal oppression, the union, and not merely the individuals who are the direct instruments of the wrong, can be enjoined or made liable for damages to the same extent that the union could be if it were incorporated; and the funds belonging to the unincorporated union can be reached to satisfy any damages which might be recovered for the wrong done. The Taff Vale Railway case, decided last year in England, in which it was held that the Amalgamated Society of Railway Servants could, as a union, be enjoined and be made liable in damages for wrongs perpetrated in the course of a strike, created consternation among labor unions there; but it laid down no principle of law new to this country.

The instances where American courts have issued injunctions against labor unions as such cover a long series of years, and more than thirty years ago an action was maintained in Massachusetts against a union for wrongfully extorting from an employer a penalty for having used the product of "scab" labor. Recently suits for damages against labor unions have ceased to be uncommon in American courts. But, while the rules of legal liability apply fully to the unions, though unincorporated, it is, as a practical matter, more difficult for the plaintiff to conduct the litigation; and it is par-



ticularly difficult to reach the funds of the union with which to satisfy any judgment that may be recovered. There had consequently arisen, not a legal, but a practical immunity of the unions as such for any wrongs committed.

This practical immunity of the unions from legal liability has been deemed by many labor leaders a great advantage. To me it appears to be just the reverse. It tends to make officers and members reckless and lawless, and thereby to alienate public sympathy and bring failure upon their efforts. It creates on the part of the employers, also, a bitter antagonism, not so much on account of lawless acts as from a deep-rooted sense of injustice, arising from the feeling that, while the employer is subject to law, the union holds a position of legal irresponsibility.

This practical immunity of the labor unions from suit or legal liability is, in my opinion, largely responsible for the existence of the greatest grievances which labor unions consider they have suffered at the hands of the courts; that is, the so-called "government by injunction." It has come about in this way: An act believed to be illegal is committed during a strike. If that act is a crime, a man may be arrested; but in no case can he be convicted of a crime except on proof beyond a reasonable doubt and a verdict of the jury, which is apt to contain some members favorable to the defendant. Many acts, however, may be illegal which are not criminal, and for these the only remedy at law is a civil action for damages; but, as the defendant is usually financially irresponsible, such action would afford no remedy.

The courts, therefore, finding acts committed or threatened for which the guilty parties cannot be punished as for a crime, and cannot be made to pay damages by way of compensation, have been induced to apply freely—perhaps too freely—the writ of injunction. They have granted in many instances this writ according to the practices of the court of equity upon preliminary application, wholly *ex parte*, and upon affidavits, without any chance of cross-examination. If the courts had been dealing with a responsible union instead of with irresponsible defendants, they would doubtless, in many of the cases, have refused to interfere by injunction, and have resolved any doubts for defendants instead of plaintiffs.

In another respect, also, this practical immunity of the unions has been very dearly bought. Nearly every large strike is attended by acts of flagrant lawlessness. The employers and a large part of the public charge these acts to the unions. In very many instances the unions are entirely innocent. Hoodlums, or habitual criminals, have merely availed themselves of a convenient opportunity of breaking the law, in some instances even incited thereto by employers desiring to turn public opinion against the strikers. In other instances individual members of the union have resorted to lawless acts in spite of strenuous efforts of the officers to preserve order. What an immense gain would come to the unions from a full and fair trial of such charges if the innocence of the unions were established, and perhaps even the guilt of an employer! And such a trial would almost necessarily be had before a jury, upon oral testimony, with full opportunity of cross-examination: whereas now nearly every important adjudication involving the alleged action of unions is made upon application to a judge sitting alone and upon written affidavits without the opportunity of cross-examination.

It has been objected by some of the labor leaders that incorporation of the unions would expose to loss the funds which have been collected as insurance against sickness, accident, and enforced idleness; that these funds might be reached to satisfy claims made for wrongs alleged to have been committed by the union. I can conceive of no expenditure of money by a union which could bring so large a return as the payment of compensation for some wrong actually committed by it. Any such payment would go far towards preventing future transgressions of the law by the officers and members of the union; and it would, above all, establish the position of the union as a responsible agent in the community, ready to abide by the law. This would be of immense advantage to the union in all its operations.

Again, it has been urged that the incorporation of the union would lead to a multiplication of law-suits, which would involve the union in great expense; but the expense of conducting such litigation would be insignificant as compared with the benefits which would result to the union from

holding a recognized and responsible position in the community.

Again, it has been urged that the unions would not fear litigation if justice were promptly administered, but that it was the dragging out of litigation which was to be apprehended. I take it that, so far as the unions have suffered from the administration of the law, it has not been from delays, but from precipitancy. They have suffered at times in the granting of preliminary injunctions,—injunctions which have been more readily granted because of the irresponsible position of the defendants.

Again, it has been urged that the unions might be willing to submit themselves readily to suit if the rules of law, as now administered by the courts, were not unjust to labor. I am inclined to think that there have been rendered in this country many decisions which do unduly restrict the activity of the unions. But the way to correct the evil of an unjust decision is not to evade the law, but to amend it. The unions should take the position squarely that they are amenable to law, prepared to take the consequences if they transgress, and thus show that they are in full sympathy with the spirit of our people, whose political system rests upon the proposition that this is a government of law, and not of men.

If it is desired to encourage the incorporation of unions, the following change in legislation would probably tend to that result.

Under the laws generally prevailing, the sick and death benefit funds of unions may be reached and applied to the satisfaction of any liability of the unions, whether the union be unincorporated or incorporated.

The labor union performs two entirely distinct functions,—the insurance function, making provision for sickness and death; and the purely business function of seeking for increase in wages or other improvement in the condition of the members. Legislation would seem proper which provided that a certain proportion of the assessments of the unions could be set apart for insurance purposes, and, if and when so set apart and kept apart, should be free from any liability for the general purposes of the union. If such a provision were made to cover only incorporated unions, a distinct encourage-

ment to incorporation would be provided. The discrimination in this respect between incorporated and unincorporated unions could be supported also on the ground that in some States it has been deemed advisable to prevent unincorporated associations from engaging in the insurance business in any form.

There remains the question whether the incorporation of trades-unions ought to be made compulsory.

To this question I should answer unhesitatingly, "No." The advantages to be derived from the incorporation of trade unions are advantages enuring primarily to the workingmen and the unions which represent them. The evils which would flow from any attempt to compel incorporation would be far greater than any advantages which could be derived from incorporation.

It seems to me probable that labor leaders will soon become convinced of the advantages of incorporation. Already there are signs of a change in opinion among labor men on this subject. There are some recent instances of voluntary incorporation of unions; and the numerous suits for damages against officers and members of unions, which have been tried within the last few months, will tend to convince labor leaders, as it has capitalists, that there are advantages also in a limited liability.

### 3. SHOULD TRADE UNIONS BE INCORPORATED?

BY PROFESSOR EUGENE WAMBAUGH, OF HARVARD UNIVERSITY.

[Read Thursday morning, May 14.]

[*Proof revised by Editor of the Journal.*]

In answer to the question whether trade unions should be incorporated, the instinct of most people seems to be to say "Why not?" The present attitude toward corporations is not, to be sure, thoroughly friendly. No, it resembles the view of some savages as to the Evil One,—an institution not to be loved, but to be feared, respected, propitiated, imitated, and, though possibly by and by to be regulated or destroyed, for the present to be considered inevitable and normal. Yet, although this is the contemporary attitude of the public, and although corporations, large and small, are now so very common as to encourage the impression that they are the most natural things in the world, the truth is that corporations are merely artificial, that they are nothing but creatures of the legislature, and that they should not be created unless their existence is for the public welfare. Consequently, to the question whether trade unions should be incorporated the proper counter-question is not "Why not?" but "Why?"

In the present instance the presumption against incorporation is stronger than usual. Incorporation is a privilege, giving, among other advantages, concentration, permanence, and partial exemption from losses; but incorporation is apparently urged upon trade unions by capitalists, and capitalists have recently contended that organizations of workmen ought to be ignored, and, if practicable, abolished. Doubtless, it is possible at one time to believe in dealing with workmen one by one, and at another time to believe in dealing with workmen in a body; but the change from one of these beliefs to the other, and especially the change from belief in no organization at all to belief in the most consolidated form of association possible, is a change so radical that it must be expected to be made slowly and to be accompanied

with careful explanation. In this instance, however, the change of front has been made with such suddenness and with such slight explanation as to inspire doubt whether it is wise. Again, the change has been made in a time of excitement. Although it is possible for excited persons to be safe advisers, the probability is the other way. Obviously, the suggested incorporation of trade unions should be examined with unusual care both by workmen and by the general public.

The one reason urged for the incorporation of trade unions is that thus there would be an increase in workmen's responsibility. The word "responsibility" has an embarrassing number of meanings; and several of these meanings are germane to the present discussion. The word is sometimes used in the legal sense, and then a person is said to be responsible whenever a remedy against him is given by the law. Thus, if workmen combine to threaten persons taking the place of strikers, the workmen combining are said to be legally responsible. Again, "responsibility" is sometimes used in simply a business sense; and then no man is called responsible unless he has property so large and so accessible that the holder of a judgment can procure satisfaction. In this business sense it may happen that those same workmen are not responsible. Still again, "responsibility" is used in another sense somewhat similar to the business sense just now pointed out, but distinctly disgraceful; for in an instance where a wrong-doer, whether a natural person or a corporation, is believed to be so influential that—although in the legal sense there is responsibility, and although in the business sense also there is responsibility—the law, through the imperfections of legislators or of judges or of jurors or of other officials, will not in fact be executed, the wrong-doer thus exempt is said to be irresponsible. It is in this last sense that irresponsibility has been attributed, perhaps inaccurately, to the owners of a building carried to an unlawful height in the most conspicuous square of Boston. In short, one is not fully responsible if no action is given against him by the theory of the law, or if he is so poor as to be below the law, or if he is so influential as to be above the law.

It is certainly desirable that every one who is conceived to

be possibly a wrong-doer should be responsible in each of the three senses explained, and hence the next question is whether in one or all of these senses the incorporation of trade unions tends to create, or at least to increase, responsibility.

Throughout the discussion it must be borne in mind that any workman personally committing a wrong against person or property is responsible legally, and that in a business sense he is responsible to the full extent of his property—less exemptions from execution; and that, in case he has been guilty of a crime or of disobedience to an injunction, he is subject to imprisonment. Further, it must be borne in mind that, in addition to this individual liability of workmen, trade unions, though unincorporated, are in the legal sense responsible for the wrongs done through the orders of their officers while acting within the general purposes of the associations, and that this last responsibility attaches to the common funds. Still further, the contracts of individual workmen and of unincorporated organizations create responsibilities in the same sense as do wrongs against person or property. Finally, it is not known that there is any jurisdiction in which individual workmen or their organizations are above the law. The principal difficulties in gaining satisfaction against workmen and unions are practical—namely, that they are not wealthy, and that it is not easy to identify perpetrators of wrongs to persons and property, and that it is still less easy to prove connection between wrongs and the unions.

The question whether incorporation would materially alter the situation suggests a distinction as to the kinds of incorporation now available in many jurisdictions. On the one hand, workmen may be incorporated for benevolent purposes exclusively; and, on the other hand, they may be incorporated wholly or partly for business purposes.

If we suppose that the corporation has exclusively benevolent purposes, it will collect money from its members and will pay it back to them or to their representatives in such emergencies as sickness, death, and lack of employment. This is a sort of insurance, objectionable, by the way, from the point of view of insurance men, for the reason that the whole fund may be destroyed by one disaster, and questionable from the point of view of the general public, because it is not desir-

able that workmen, and especially workmen in any one business, should treat themselves for charitable or social purposes as a distinct class, and also because the existence of a large fund for the unemployed encourages unnecessary and unsuccessful strikes precisely as excessive wealth promotes extravagance and idleness. Now it is obvious that it is foreign to the purposes of a benevolent organization to promote directly business interests of its members; for example, to declare strikes or boycotts and to make contracts as to rates of wages. Yet it is not inconceivable that the officers might do such acts in the supposed interest of the corporation; and, in that case, in the absence of express authorization or subsequent ratification by the members, there is a difference of opinion upon the question whether such acts are to be deemed the acts of the corporation. If the view should prevail that such acts create no corporate liability, the result is that the responsibility of workmen is in no sense increased by incorporating labor unions for benevolent purposes exclusively.

Yet persons suggesting incorporation with a view to increasing responsibility have in mind, very probably, incorporation for benevolent and business purposes combined, or possibly incorporation for business purposes exclusively. In this discussion it is convenient to call a corporation organized either with mixed purposes or with exclusively business purposes a business corporation. Let us imagine, then, that a trade union is incorporated for the purpose both of providing for sick or unemployed members and of regulating the relations between workmen and their employers. Such a corporation might have officers managing its affairs, stockholders, shares with a certain par value, and a fund composed primarily of the proceeds of the sale of shares. This corporation would not be legally responsible for the wrongs or contracts of any one or more of its stockholders, but it would be legally responsible for the wrongs or contracts authorized by its officers in the course of its business. Further, the assets of the corporation would be liable for the damages caused by these wrongs and contracts. Finally, there would be a legal liability on the part of the stockholders themselves to pay into the corporate fund such sums as might be nec-



essary to enable the corporation to meet these claims, although, to be sure, this stockholders' liability is subject to qualifications, and usually does not extend beyond paying for the stock in full and making an additional payment of the same amount.

More specifically, in case of illegal interference ordered by the proper representatives of the corporation, or in case of a breach of a contract entered into by those representatives as to rates of wages, there would be a new legal responsibility;—namely, a legal responsibility on the part of the new legal entity, the corporation itself; and this new legal responsibility would be supported by a new business responsibility, because there would be corporate assets.

Yet it must not be inferred hastily that these new responsibilities would be of value. In the first place, although there is difference of opinion upon the question whether the legal liability for the wrongs and contracts described would attach to such corporate funds as might be raised not by sale of stock, but by contributions made clearly and exclusively for benevolent purposes, such as aiding stockholders when sick or unemployed, there is not the slightest doubt that such contributions would be perfectly protected if held by a separate body; for example, a benevolent corporation composed, possibly, of precisely the same persons. To take from the business corporation the control of funds meant to take care of cases of sickness and death would obviously be just. To treat funds for the unemployed in the same manner would be of doubtful propriety; for the lack of employment would often be due to a strike, and the declaring and managing of strikes in the interest of stockholders would be a considerable part of the work of the business corporation. However improper it might seem to capitalists thus to separate the benevolent funds, the separation would certainly take place; and workmen would deem this course justified by such devices as those whereby the railway companies of Pennsylvania evade the constitutional provision forbidding them to mine coal.

Now, as the sums required by trade unions for benevolent purposes, including the support of strikers, are much larger than the funds required for any other purpose, it is probable

that the capital stock of the business corporation would not be large, and that in a business sense such a corporation would hardly be called responsible.

Nor is this result changed by the existence of a limited liability of the stockholders themselves, for the actual inefficiency of claims against individual workmen is one of the chief grounds for urging incorporation.

Further, the legal liability of the business corporation for the wrongs committed by its authority, as distinguished from breaches of its contracts, would largely be illusory; for the records of the meetings of stockholders and directors would seldom indicate that wrongs were authorized, and in most instances it would be practically impossible to prove that the wrong in question was not the unauthorized act of the wrong-doer himself, and, as has been said, the corporation would not be legally responsible for such an independent act, even though committed by a stockholder, and, it may now be added, even though committed with the thoroughly accurate belief that the act would aid the corporation to bring to a successful close the undertaking in which the corporation was engaged.

It seems, then, that the incorporation of trade unions, even for business purposes, would not result in as great responsibility, either in the sense of legal responsibility or in the sense of business responsibility, as might easily be imagined. The chief results attained with certainty by incorporation would be that the legal responsibility of the incorporated trade union would exist in the place of the legal responsibility of the unincorporated association, that the trade union would assume a more solidified and permanent form, and that the new organization could sue and be sued in its collective name without the necessity of ascertaining and naming the members. In case of litigation the change would be a convenience. The question remains whether the advantages of the change would be purchased at a price too large for workmen and for society in general.

Are there not incidents which cause corporate organization for business purposes to be a difficult form for trade unions? A corporation is not temporary, but permanent, and it is not easily terminated when changed conditions render its

existence unnecessary. The conditions surrounding employments, both skilled and unskilled, are changing constantly, and it is impossible to predict whether a few years hence it will be desirable to have among coal miners, for example, one association or two or more. Again, a corporation is necessarily governed by a small body, and perhaps in fact by only one person, and against the acts of the governing power of a business corporation the minority of the stockholders can have little remedy. The stockholders have not even that remedy of withdrawal which in the case of an unincorporated association acts as a check upon mismanagement, for a stockholder cannot withdraw without obtaining a purchaser for his stock. Now the stockholder in a trade union, wishing to withdraw because of dissatisfaction or of removal or of change in occupation, would find this difficulty peculiarly irksome. He cannot have unlimited power of selling his share; for otherwise he might sell to a person not interested in the business or to a capitalist, and control of the corporation might pass into hostile hands. Finally, when the stockholder in a trade union died, something would have to be done to prevent the share from passing into the ownership of a representative unfit to have voice in the corporation's affairs.

Undoubtedly, machinery can be devised to meet these difficulties; but the machinery must consist of devices whereby stock in the corporation is deprived of the usual incidents of corporate stock and whereby ownership is rendered as analogous as possible to membership in a voluntary society. And, by the way, one obvious regulation of this sort would forbid any person to own more than one share, or at least to have more than one vote. The difficulties, then, though not insurmountable, call attention to the fact that for workmen a business corporation is not an appropriate mode of organization.

The business corporation is worse than inappropriate. It endangers the chief benefit for which the public is indebted to trade unions. It is to trade unions that the public is indebted for restraint upon the vast power of combinations of capitalists. Yes, it is a fact that to workmen more than to the law the public is thus far indebted for this great and

necessary service. The trade unions, doubtless, have been seeking their own ends; but because workmen are so numerous that their welfare is of great importance to the whole community, and because the curbing of the power of combinations of capitalists as to workmen is necessarily a curbing of that power in every direction, the fight of the workmen has been a fight for each and every one of us. A converse benefit received by the public at the hands of capitalists—insistence that workmen must obey the law—has also been dependent upon the thoroughly sincere opposition of workmen and capitalists. If incorporated trade unions, instead of being the exception, became the rule, would this opposition continue?

Notice the change that would take place in conditions. When trade unions are incorporated as business enterprises, they will be much more easily and permanently controlled by one group or by one man than while they remain mere voluntary associations. The controlling power can easily be ascertained and consulted by employers. Between the trade union corporation and the employers it is perfectly feasible to effect an alliance, defensive and offensive. Unquestionably, the alliance would mean an increase in wages; and, unquestionably, it would mean a still greater increase in prices. Already it is said that employers would recognize incorporated trade unions, and would be willing to make long contracts with them as to the rate of wages. In short, the danger is that trade unions incorporated for business purposes will combine with capitalists, and that the resultant combination will be managed largely in the interest of capitalists and in disregard of the interest of the public. Such a combination of workmen and capitalists would be able to defy the law, and, in fact, would be, in the disgraceful sense pointed out near the beginning of this discussion, irresponsible.

It is true that one cannot predict this result with certainty; but it is a possible result, and it would be disastrous, and the danger is quite imminent enough to overbalance the slight advantages that might be brought about by turning trade unions into business corporations.

Here, then, is an occasion for declining to encourage the wholesale creation of artificial persons with dangerous powers.

Doubtless an artificial person may be benevolent and beneficent; but doubtless such a creature may be morally irresponsible and practically uncontrollable. There is wisdom as well as imagination in Mrs. Shelley's romance of "Frankenstein," picturing an artificial creature made by man, with human form as nearly as might be,—a creature strangely powerful, but without moral sense and beyond the control either of its creator or of itself.

The whole argument against incorporation cannot be presented by any one person, and still less the arguments on both sides. What has been attempted has been to present from the point of view of the public so many of the more important considerations as to show that incorporation should not be favored hastily. As has been pointed out, in any case the presumption is against creating an artificial person,—a corporation; and the presumption is the stronger in this case, where the suggestion comes not from workmen, but from capitalists, and somewhat suddenly. And the reason given—namely, that incorporation would cause new and valuable responsibility—largely fails, even though the corporation should have capital stock and business purposes; and the structure of a trade union as a business corporation must be abnormal. And, finally, there is attached to trade union incorporation for business purposes a grave danger to society.

In short, in this instance incorporation, though attended with a few conveniences, is unnecessary, inappropriate, and dangerous.

Do not forget the danger. If incorporation of trade unions should lead to combinations of workmen and capitalists, the results would be far-reaching. One result might be a species of industrial peace; but peace at that price would cost too much. Opposition of workmen and capitalists—lawful opposition—is one of the most valuable assets of the public.

In commenting upon the substance of the foregoing papers, Mr. John F. Tobin, President of the National Boot and Shoe Maker's Union, said: This is a subject which has engaged the attention of a great many thoughtful students of social economy as well as thoughtless critics of the labor organizations. The agitation favoring the incorporation of trade unions during recent years indicates an apparent desire to curb the growing power of the unions, and it is a splendid testimony to the value of the trade unions and is a sufficient answer to our critics, who declare that the trade unions have accomplished, and can accomplish, no practical results.

The principal argument advanced in favor of the incorporation of trade unions is that it will give security to contracts made with labor organizations, and make them liable for damages to the same extent as the employer. At first glance this appears like a sufficient reason for the incorporation of trade unions; but, when you take into consideration that in matters affecting contracts between employers and unions legal redress is seldom or never resorted to by the unions against the employer for violation of trade agreements concerning wages, hours of labor, or any other condition affecting the relations between employer and employees, the reason is not so apparent.

The keenness of competition for business between the employers in the various industries has the natural effect of prompting each employer to economize in every way possible so as to cheapen his product, and thus secure the inside track as against his nearest competitor; and, as labor remains unorganized, it becomes an easy prey to encroachments upon its wages, hours of labor, and still further exertion, calling for closer application to work under high pressure during long working hours.

This tendency to cheapen production becomes more and more pronounced as the margin of profit diminishes, and we approach nearer and nearer to the trust period in the different industries. This carries with it watchfulness on the part of the employer to make changes in his methods of production; and it very frequently happens that the heads of departments in manufacturing and other lines of business, in their zeal to please their employer, and thus advance their own personal interests, take advantage of every opportunity to lessen the cost of production in their particular branches of the business. Herein lies the disturbing influence which very frequently leads to dissatisfaction and eventually to strikes, and very frequently what is charged against the unions as violation of trade agreements. Hence it is that we have those who advocate the incorporation of trade unions, so that employers may, through court decisions, successfully resist trade unions in protecting itself against such encroachments.

Within the last few days my attention was called to a case of this kind which occurred in St. Louis, Mo. Under a contract which we have with an employer there, it is agreed that no change in wages shall take place except by mutual agreement between the union and the employer. In a certain part of the factory two men were employed on machines of

identical speed, one man at \$15 per week, and the other at \$13.50. Recently the \$15 man was taken from the machine and placed on another job. The \$13.50 man was advanced to the other machine; but his rate of wages remained \$13.50 per week, and the machine that he formerly operated passed to a still cheaper hand. This is a case wherein there is no legal redress, although it is plain to be seen that the wages yielded under the two machines has been reduced. Our only remedy in this case lies in the fact that we have a valuable trade factor, known as the Union Stamp of the Boot and Shoe Workers' Union, the use of which is embodied in an arbitration agreement which we have with this firm; and, having established the fact that there has been a reduction in wages, we can require that the wages be restored, or that the contract be cancelled because of its being violated.

It is my opinion that the old-fashioned prejudice against trade unions is responsible for many of the conflicts between labor and capital. There is a growing tendency in the direction of recognizing the right of labor to organize and bargain collectively for its labor. At least we find it so in the shoe trade. Many manufacturers who have for several years discouraged the organization of their employees, and who have selected their hands because of their known opposition to unions, frequently consult with us as to how they can change their attitude toward their employees in this respect and make a contract with us as a union, which would require their employees to be members of a labor organization, and thus reverse their entire policy, and do business with the union instead of against it, as heretofore.

The incorporation of trade unions would tend to widen the breach between labor and capital, and would not, to any extent, make contracts with labor unions more binding. The organization which I have the honor to represent is not incorporated, and still our reputation for keeping our contracts is well established, and our ability, as well as our disposition to do so, has been well illustrated in Lynn and Haverhill just recently.

Every reliable business institution in this country feels its moral rather than its legal obligation to keep its contracts; and we believe that, if every business institution treated a labor organization as if it were not going to assume the management of the business, but simply to exercise its right to make a collective bargain for labor, then the sooner would it become apparent that contracts between employers and labor unions will be just as binding as between any other two bodies not incorporated, but actuated by a desire to honorably stand by its contracts.

Not legal obligation, but a sense of fairness and a spirit of justice and the pleasure we find in keeping our obligation in accordance with our past record, is the best guarantee we can offer, and is better than incorporation or bond of any kind.

The application of strict business principles and the recognition of mutual obligations as between parties to contracts will produce better and more lasting results than any scheme of incorporation.

Agreements between employers and local associations of labor are

to be avoided if the best results are expected, as disagreements may occur which would result in disaster to both parties, unless restrained by the agreements being made binding upon a national body, thus avoiding the possible repudiation of agreements made locally because of impositions upon employees by persons in authority without the knowledge of the employer, or, on the other hand, through some local excitement such as suggests the sympathetic strike.



#### 4. JOURNALISM AND PUBLICITY.

BY ST. CLAIR MCKELWAY, LL.D., OF BROOKLYN, N.Y.

[Read Thursday evening, May 14.]

*Mr. President and Friends*,—My subject, as announced, is "Journalism and Publicity." One might say that the two words are synonymous. At least, it is difficult to think of the two apart. The significance of journalism is its publicity. Publicity finds channels of speech as well as channels of print; but print is its paramount medium, and without it that which we call news would have slower transit and greatly reduced vogue. The only way to make the two words stand over against one another is to put publicity in its antithetical relation to privacy. Thus, when we talk of Journalism and Publicity, we suggest Journalism and Privacy; and by talking of the latter two terms we suggest the former. One of my colleagues at a later stage of our sessions will talk about "The Right to Privacy." Our subjects were selected by or assigned to us without our consultation. Mine will hardly lap over on his, because he may be expected to speak on the legal phases of a proposition, while my treatment of it will concern itself very little with those phases.

Let us clearly set forth what is meant by the main terms of the subject.

##### THE JOURNALISM NOT MEANT.

"Journalism" as a word signifies something issued in print every day. In what I shall say, daily journalism, I take it, must be meant. There is a weekly journalism. But it can hardly come within consideration. The reasons why it cannot are passingly worth noting. One kind of weekly journalism is devoted to the exploitation of crime and to the brutal sports of the underworld. Pugilists do not object to publicity, though many gentle readers object to the publicity of pugilism. Not a small proportion, however, of those who so object read what they reprobate, and protest against the publicity of it

for fear of the injury that it may do to others or as a form of *amende honorable* of their conscience to their curiosity, just as a prayer is at times a reparation which the mind tenders to the heart as an offset to a favored sin. As to the objection of criminals to publicity, nothing need be said. They do not like to come to the light, lest their deeds be reproved. Publicity is the enemy of crime and the preventive of it.

There is another sort of weekly journalism which invades privacy by scandalous imputations and salacious writings. It exists alone for the purpose of feeding and increasing the appetite to which it appeals. It is not conducted on the rules of general legitimate journalism at all. It is not amenable to those rules. It has its main circulation among those who believe that the private affairs of other people are matters which it is not bound to respect. It is, I assume, on these accounts outside the realm of the discussions of this Association. Our discussions, I further assume, should deal with desirable change and with redressible evils. The evils of the kind of journalism to which I have referred, if redressible at all, impose on grand juries and district attorneys more of a duty than on the class of readers before me, who, I must suppose, do not contribute to that kind of journalism the support which comes by purchase or the prevalence which proceeds from perusal. The kind under passing notice does not fall within the case I am considering.

Still another sort of weekly journalism is barred from serious attention. It is represented by amiable and innocuous weekly publications devoted to what it calls society gossip and news. Longevity is not the rule of this kind. The weeks in a year are too many to measure the vital persistence of some of these sheets. Their favorite venue will be found at watering places or mountain resorts. They come out with the butterflies and go out with the mosquitoes. They are the ephemera of what is called "a season." The "society" of which they claim to be the exponents contributes, as a rule, the news of its own movements and events to them. Those folk do not contend for the privacy of their lives. What they contend for is primacy for their items. They quarrel with these sheets only when they give to their hints or notices or occasions less space than they think should be given. These things are more

effusive than offensive. They are really conducted by their contributors. Their contributors, as a rule, comprise their whole constituency. The editing of such things is incompatible with the idea of brain fever, for the adjective cannot be placed before the noun. Their function is that of a sifter or a strainer. By dropping an item in the slot of tattle, one draws out a personal notice of one's self or one's gown or one's horses or one's servants or one's dinner or one's guests. We are assured that the folk thus honored are made happy by this process. For people who like that sort of thing, that is precisely the sort of thing they like. These sheets are harmless. They have neither malice nor manliness. They are as free from virulence as from virility. They really belong under a sort of trade classification. The guild of gentle and unjaundiced gossip produces and patronizes them. Their circulation is as restricted as their scope. Their contents are confined to the subjects for which they exist. Those subjects are of absorbing interest to what are called dudes and buds. They never contain anything to bring a blush to the cheek of the most inane young person. They inspire no hostility. One would as soon commit assault and battery on a five o'clock tea as to be angry at them. One would as soon bring out a squadron of artillery to bombard a field of dandelions. So long as their constituency does not complain of them, no one else is called on to do so.

Under the same head of guild publications not a few theatrical weeklies should be rated. Their articles are personal. Their tone is comically acrimonious or absurdly laudatory. The profession for which and on which they live is, however, responsible for them, and they do not really fall within the purview of this discussion.

#### THE JOURNALISM WHICH IS MEANT AND THE COMPLAINT MADE.

The excluding process might be extended, but surely its purpose has been accomplished. The journalism which is within your minds should be brought to the front by the very act of sweeping out of your minds the journalism which is not in the case. The journalism really opened to review here

is that of which all or some of its constituency complains, whether reasonably or not. It is that which such a constituency regards as an offender. It is a journalism of which the circulation suffices to make considerable any cause of offence which it gives. It is a journalism amenable to public opinion and dependent on it.

Of this journalism complaint is made. Now what is the complaint? It is that such journalism invades the right of privacy, or that within it such a right is invaded. In strict construction, what is a right? It is something of which a person is possessed or to which he is entitled by nature or which has been conferred upon him by law or custom or which becomes his by the course of the scheme of things in the world. The primary rights on an authority Americans will not dispute have been summed up as "life, liberty, and the pursuit of happiness." Within them the right to privacy is included as it were, like a letter within an envelope. In several senses and under many circumstances privacy is among the things that make life worth living. It is essential to the liberty of thought and certainly to the liberty of expression, and to "all the comforts of home." We may even say that in privacy actual thought, real thought, sincere thought, is alone fully expressed, as a rule. In the pulpit it is not always heard for fear of fell effect on the pews. From the platform it is not always expressed for fear of fell effect on the public. In the legislature it is not always expressed for fear of fell effect on the "districts." In the press it is not always really expressed for fear of fell effect on subscribers, although the freedom and frankness of utterance in newspapers is becoming greater and greater every year. In none of these grand departments is the thought of men actually repressed or prohibited. But the utterance of it is modified by the parliamentary rules and by the conventional usages inseparable from the association of men in any form.

One might suggest that those rules, usages, and courtesies actually make the modification of thought which they impose a nearer expression of judgment and of justice than the latitude and the liberty allowed by absolute privacy would assure. But that is not exactly the subject which we are considering now, and more than the suggestion of it cannot be indulged.

The invasion of the right of privacy is destructive, at times, of considerable happiness in those affected by it. The proposition is too self-evident to need enforcement or illustration. Such an invasion must, therefore, be conceded to be a denial or an impairment to a degree of some of the primary rights of men. If the charge of wantonly invading the right of privacy can be sustained against the legitimate press, the matter is a serious one. To invade is nearly always correctly thought of as to force your unwelcome way in. There is, however, invasion and invasion. There is an invasion for what the public has a right to know. Public right in such instances must be made very clear. It is not created by public curiosity. It is hardly extenuated, and can only be sophistically defended by the plea of public curiosity. It must issue from the public welfare, and it must tend to promote that welfare. All will admit with me that, if anything in this world ought to be private in addition to a man's home, his telegrams his letters, and his bank books ought to be.

#### PRIVACY AFFECTED BY A PUBLIC INTEREST.

Yet tread gently here. Tweed's bank account was not respected. It was wantonly invaded by Charles O'Connor and Samuel J. Tilden. All honorable newspapers and all honest men now applaud that invasion. It was held to be essential to the proof of Tweed's robbery, necessary to the exhibition of the division by Tweed of the public money which was privately and officially stolen. It was seen to be indispensable to the discovery of what remained, from which to secure his conviction. The reader will say, "But he was a criminal, and that made a difference." It is easier to say that now than it was when the thing was done. It was not easy to say it then. O'Connor and Tilden and the few bold newspapers where they lived which were behind them were charged with the same invasion of the right of privacy brought against the press now. To-day the descendants of the offenders then punished, sufferers for the sins of their fathers unto the third and fourth generations, have never forgiven the journalistic invasion of the right of privacy which was forfeited by public misdeeds or suspended by the operation of

public interests. Nor should any citizen in whom memory is a quickener of morals or a promoter of patriotism fail to recollect that in 1876-77 a committee of Congress ransacked many private letters and seized many private telegrams in hope to determine whether the Presidency of the United States had been bought or sold or bidden for or hawked about in the preceding election. That committee sat a while in my city. Its open proceedings were published in all the newspapers. They were read with an interest rarely commanded by fiction or exceeded by tragedy or equalled by poetry or comedy. Every right to privacy was made to yield in that investigation to the paramount right of public honor, political safety, and moral justice. Universally, but ineffectively, the complaint was that the invasion did not go far enough, not that it went too far. The complaint was that the letters and telegrams of the other political party were not also seized and published. They could not be. They had been judiciously burned before the investigation began.

Recall the repeated and applauded invasions of the right of privacy by legislative investigating committees in New York City, when the corruption of both political parties was laid bare with a report like that of the guns heard round the world, when fired from Concord Bridge. Who can say these invasions were not right? They unearthed the sale of law. In instances they made the receivers of stolen moneys disgorge them. They held up to infamy those who had bought wrongs and sold rights. They disclosed guilt and protected innocence.

You must admit with me that the whole matter turns upon consideration affected, as the courts say, by a public interest. To expose, punish, and stop the looting of a treasury is an adequate public interest. To tell whether the national will has been nullified by corruption or reversed by force is an object tremendously affected by a public interest. A journalism which does that is a public protector. It may be a moral avenger. It is certainly a public benefactor. The privacy it invades is a public property. The whole is of more account than a part. The concern of all is more than the susceptibility of one or a few. There must, however, as said, be a clear public interest. Public welfare must

be the motive, as public interest must be the justification. As far as human nature with its infirmities will permit, the temper shown must be free from vindictiveness. Till wrong abandons secrecy, journalism will invade privacy. It is not nice work, but it is better than plunder. It morally excels what it brings to light. A constable is better than the criminal he captures. A newspaper which flashes on the secrecy of wrong, on the privacy of public offences, the clear white light of publicity, is better than what it reveals. It should not be condemned by the malefactors on whom it turns that light.

#### CENSORSHIP BY THE SORE.

This leads me to say there is much unjust criticism of the press. A qualification for press criticism is not supplied by the mere receipt of that criticism. Those whom the press censors for cause are likely to censor the press without other cause than their own smarts. Newspapers are often in error, but most of them are more anxious to repair it than commit it or persist in it. Has a man incurred the general displeasure of the community? He blames the paper that says he has, and proves it. Has some particular journal offended a sensitive citizen? That journal becomes his measuring rod for the whole press. Does an editor decline to take a man at his own estimate of himself? That man regards that editor as well-nigh a public enemy. The number of those who can regard a difference of opinion as no proof of moral obliquity is never large. Considerable general culture is required to do so. The specific finish of a distinct art or of a single business or of a particular profession will not suffice for this. Some of the most accomplished merchants are the veriest bigots of sectarianism. Some of the ablest lawyers are the most absolute proscriptionists in politics. Some of the most skilful physicians are Bourbons in theology and partisanship, as well as in medicine. Run back to their sources the reasons of those who perpetually impeach the press, and you will find that they have their roots in personal grievances, in mental littleness, or in spiritual barbarism. Do not think I regard the press as faultless. I am only remarking the injustice of some of the enemies

and the unreasonableness of some of the enmities which it has made, in being more tolerant than some of its readers toward government, politics, morals, theology, reforms, and what not.

This has the appearance, but not the reality, of a digression. It goes straight to the question of the press as an invader of the right of privacy. Government claims, and to government within limits should be conceded, the right of privacy. Yet in final analysis the endurability of government is in the publicity of it. Publicity of it is punishability of it. Of old the cry was, "How shall they hear without a preacher?" To-day the question is, "How shall they learn without a newspaper?" The newspaper now discharges duties of proclamation once delegated to the altar, the church door, the market-place, and the town crier. Ignorance of the law excuses no man. But that is only because the assumption is that the law will be printed and the man can read. When printing was unknown and reading was confined to the few, laws were so simple that they corresponded with the principles of justice and with the monitions of conscience in every breast. That is now impracticable. Government is complicated. Conditions are artificial. Competitions are destructive. And seething disparities of fortune and opportunity divide the race into classes that contend and conflict. Note the difference between the simplicity of the ten Commandments and the elaborate and multitudinous and labyrinthine provisions of the contemporary tariff. We must find out what is the real right of government to privacy and what is the real duty of the press in preventing the excess of that right from working against the welfare of the people.

#### GOVERNMENT UNDER A BLANKET.

We have more secret government than is realized. Every executive session of the Federal or State Senate is an act of secret government. A result is the creation of an artificial prerogative called senatorial courtesy. From that results the division of the appointing power through senators instead of its concentration in the elected President, as provided by the Constitution. We thus have almost as many unelected assistant presidents as there are senators. An endeavor to



level this contention to the plane of law created a cataclysm from which issued the assassination of James A. Garfield. Every press endeavor to get at what goes on in the executive session is resented as an invasion. But every such invasion is in the public interest. To the degree that the invasion is successful are insured the weakening of government in part by oligarchy and the strengthening of government by the people. The more the press can get at the secret workings of politics, the greater the power to elevate the standard of character, capacity, and service in government, or the ability to deliver telling blows against bossism. Newspaper men know this so well that they can only laugh at the credulous enthusiasm which rejoices in fine words of platforms or fine professions set forth in letters of acceptance. Of reformers who carry reform to the verbal stage the woods are full. But they are as useless in newspaper work as a band of music in deer-stalking. The blow at secrecy in government by closed executive sessions on confirmation is one for responsible and accountable government. A favorite policy of this secret government is neither to confirm nor reject nominations, but to hang them up. That is the negation of government. It is the paralysis of action. It is a violation of the good understanding on which government in fact can alone exist. It is in the contract of government with the people that courts shall adjudicate, rulers rule, and senates consent or refuse to consent to nominations. The lubricating oil which enables the wheels of the world to revolve without ruinous friction is involved in this good understanding. Violation of it is moral treason. Recourse to it is the shame of politics. Condonation of it is the reproach of parties. It is the beginning of the end of government. It is due to the vice of privacy where there should be publicity. Jefferson, who foresaw the hearts of men and the core of things, said he would rather live in a country with newspapers and without law than in one with law but without newspapers. Consider the evils and the dangers of privacy in government. Regard the press by interest and instinct as the enemy of that privacy. Then credit it with good results, if not with good intents, in being so.

## DIVORCE AT PRIVATE CONVENIENCE.

The privacy of government is seen in divorces. Every divorce case tried out of open court is an act of secret government. The scandals and wrongs such proceedings often work at times arouse the thunders of the bench, of the pulpit, and of the press, and even the feeble tenor of bar associations. There are three parties to every marriage,—the man, the woman, and the public. Law requires the vital facts of all marriages to be filed for registration and inspection. It formally prescribes the same with reference to divorces. But it seals up the facts in divorce cases with results which have made divorce-getting run with fraud, falsehood, and ineffable outrage on the innocent. In various parts of this country the innocent can be divorced without knowing it. I am not talking about whether there should be any divorces or whether the causes for divorce should be few or many. That is a matter far afield. I am talking of the evils of secret divorce-getting for any cause. A call for reform on this head is general. It can only be affected by making marriages indissoluble or divorce trials public. I am aware that secrecy in divorce-getting is defended on the grounds of the feelings of the parties and on the protection of public morals. Those who recur to public tribunals should weigh the effect on their feelings in advance. The public is an entity as really as the family is. Of justice the foundation is knowledge. The denial to the public of knowledge on the ground of personal susceptibilities is wrong. Divorcing is an act of State sovereignty. Sovereignty should not be masked to conserve personal comfort. Dissolution of marriages should not be a private convenience. The question of the measure of publication of details should be left to the press, for punishment if abused, with loss of repute if abused. That will take care of itself. The passion of the press for publicity is a public security. The good it works outweighs the harm a thousand to one.

## SOCIETY AND THE PRESS.

There is room for reform on the side which the press turns toward society. There is room for reform on the side which society turns toward the press. The right of privacy, when

the public interest is not involved by its disregard, cannot be disputed. But it can be relinquished for what its possessor may deem to be a more desirable equivalent. The press has invaded the right to privacy, but it has at times thought that its intrusion was invited. There is something to sustain that impression. The daily receipt of personal items from the pens of those named in them, with the polite expression that they may be inserted prominently and promptly is the experience of every paper. Request to send reporters to weddings, receptions, and subsequent christenings, at homes and the like, is a feature of the mail of every journal. Quite often precisely the reporter preferred is frankly stated. Advance lists of guests, advance descriptions of gowns, ornaments, decorations, and presents, are kindly enclosed. The menu and the address of the caterer can always be relied on. The intending bride or her father is sure to be the accurate historian. The unconsidered personal equation is generally the groom. So offensive do these personal notices become that those named in them invariably buy a large number of the papers—presumably for suppression. This pleasant publicity is grateful and interesting to the public concerning those whom wealth, culture, or public position makes objects of interest. It is interesting not only to them, but to those who like them. Those who are chronicled by personal request need not be specially considered. Those who are chronicled by general request thereby pay a sort of price for their prominence. The first desire to appear to the world in an agreeable light. This is due either to vanity or to a struggle toward the ideal. It is not reprehensible. There is a pathos in it, if you have eyes to see. None ever saw his name in print in terms which suggested a desirable importance with any poignant sense of dissatisfaction. There is much affectation to the contrary, but it is affectation.

The excessive personalism of the press should be reduced or turned into better channels. All should remember, however, that readers affect journalists quite as much as journalists affect journalism. Medicate the desire for publicity. Would you cure the newspaper, prescribe for the reader. Frankly, however, that is difficult and unlikely. People are intensely interesting. Things are increased in attraction

if the personal equation can be imparted to them. Those who are not regarded wish to be. Real or presumed importance is relished. The assumption can be converted into reality by the aid of print in them who are exercised thereby. Not the extirpation of personalism, but the training of papers and readers to higher standards of expression and to topics on the lines of the world's best interests, is the requirement. Tattle about the useless should be superseded with truth about the useful, gossip about the frivolous by real news about earnest folk. Fashion should be treated as a function, and to it should be given its relative place. But faith and force should be rated above fads, and culture above clothes, and character above both. The press is imitative and sympathetic. When society really determines to foster its own privacy and not to fling its occasions and its persons at the head of the public, then the relation of journalism to the right of men and women to eat, drink, travel, and receive without publication will be respected. The community that would reform the news tone of the press should reform the news tone of its parlors, its tables, and its clubs. The gossip of the press is but the extension of the gossip of the avenue, with the difference that it is less recklessly and more grammatically expressed.

At the evening session of the Department of Social Economy, following some introductory remarks by the Chairman, Mr. John Graham Brooks, the President of the Association, Hon. Oscar S. Straus, LL.D., delivered an address on the subject of

#### 5. "INDUSTRIAL PEACE."

Mr. Straus said: The Association has this year departed from its time-honored custom; and out of deference to the hurry and strenuousness of our age has compressed the usual sessions, covering five days, into two and a half days. As I was largely responsible for this change, it was but my simple duty to be the first to place myself under the press, and, instead of presenting the usual address of the President, to which an evening has in the past been given, to content myself with a quarter of an hour, and to share my time with the learned specialists who will both instruct and entertain you.

I will confine myself to a few general remarks upon the subject which to-day is foremost in all civilized and progressive countries, "Industrial Peace."

#### THE CIVIC FEDERATION.

My connection with the organization and working of the Industrial Department of the Civic Federation perhaps entitles me, to that extent, to speak from the standpoint of some experience. This department was organized at a general conference held in the city of New York on Dec. 16 and 17, 1901. At that conference were assembled the leading representatives of organized labor, some of the largest employers of labor, and a number of public-spirited men, representatives of the general public. The discussions that followed were free and unrestrained; and, as the proceedings have been published and widely disseminated, I need not dwell upon them. The conference resulted in the adoption of a platform or "Statement of Purpose"; also in the appointment of an executive committee of thirty-six, divided into

three sections,—representatives of labor, of employers, and of the general public. On Dec. 8-10, 1902, the second annual conference was held, also in the city of New York, which in its general nature was like the first, but clearly showed evidences of a more conciliatory spirit and better understanding. The results accomplished by this body have not only fully justified its existence, but have also clearly shown that along the lines of its endeavors the best results toward adjusting labor disputes and securing industrial peace are attainable. The "Conciliation Committee," composed of nine members, three selected from each of the respective groups, has been applied to for its good offices within the past fifteen months in many important and large labor controversies. These applications have come, sometimes from the one side, sometimes from the other side, and not infrequently from both sides. The committee has succeeded beyond its most sanguine expectations in bringing about or materially contributing toward an adjustment in nearly every instance, with the exception of the Anthracite Coal Strike. Its efforts to avert that lamentable and bitter struggle, after bringing about two conferences between the operators and the representatives of the miners, failed largely, if not entirely, because of long standing enmities growing out of wrongs and arbitrary exactions on both sides, far antedating the conferences, coupled with a determined stand on the part of the operators to make no concessions whatever.

#### THE CIVIC FEDERATION AND ITS CRITICS.

The plan of organization of the Industrial Department of the Civic Federation has been unfavorably criticised for not giving unorganized labor a representation, and as a consequence unduly leaning toward, if not actively supporting, organized as against unorganized labor. This point of view did not escape the careful attention of the Executive Committee of the Federation, and for that reason its "Statement of Purpose" contains the following: "That at all times representatives of employers and workers, *organized and unorganized*, should confer for the adjustment of differences or disputes," etc. Besides, these considerations presented them-

selves, that the third group, "On the Part of the Public," could certainly be relied upon to represent all the laboring elements irrespectively, just as they represented the welfare of the entire community. In what other way could it select representatives; for, had the Civic Federation summoned unorganized labor to have a conference, and select delegates or representatives for its committee, then it could have been charged that by that very act it had promoted the organization of unorganized labor. If at any time unorganized labor as such should select representatives, if such be found practicable, I think I am justified in saying the Civic Federation will welcome such delegates or representatives upon its Executive Committee.

### THE CONTENDING FORCES.

The conflict between employers and workmen—commonly expressed, between Capital and Labor—has never been more concisely, graphically, and fundamentally described than when Roger Williams said, "What are all these strifes and contentions about but for larger dishes and bowls of porridge." This very contention, which is the source of unrest, is at the same time one of the chief factors of material advancement and progress. The highest consideration should not be how to deaden that strife and contention, but how to co-ordinate and regulate it, so as not to break the bowls and spill the porridge. To the extent that labor organizes for self-protection, for the purpose of bettering its conditions and raising the standard of life, it is not only justified, but becomes a contributor to the advance of civilization. But, when labor organizes in a spirit of bitterness and hostility against employers and uses its power to tyrannize over the directing forces of industry and the capital necessary to give it life, to that extent it defeats its own interests, hinders industrial progress, and becomes a menace to social order. The responsibility upon labor, even where it has the power, *not* to exact uneconomic demands, is greater than upon the employers, because the consequences from such demands to labor are more serious, in that the logical result of such uneconomic demands is the loss of employment by the closing

of the shop, and, if generally persisted in, by the destruction of the industry. "Our language," says the Anthracite Coal Commission, "is the language of a free people, and fails to furnish any form of speech by which the right of a citizen to work when he pleases, for whom he pleases, and on what terms he pleases, can be successfully denied. The common sense of our people, as well as the common law, forbids that this right should be assailed with impunity. . . . There is only one war-making power recognized by our institutions, and that is the government of the United States, and of the States in subordination thereto, when repelling invasion or suppressing domestic violence. War between citizens is not to be tolerated, and cannot in the proper sense exist. If attempted, it is unlawful, and is to be put down by the sovereign power of the State and nation." \*

The greatest obstacle to industrial peace is not selfishness, but the tyranny of ignorance and uneconomic demands. In the very nature of things the employer class, as a whole, is the more educated, and has a better conception of "enlightened self-interest." But, with the reasonable lessening of the hours of labor and the widening opportunities for education, the laboring class is certainly making great intellectual progress; and many of its leaders are men of wise experience, of education, and of ability, with an enlightened sense of their duties as patriotic, peace-loving citizens. In this connection I will quote from a recent paper read before the American Economic Association by one of the most intelligent and learned representatives of organized labor. He said: "No matter how good an employer's intentions, he cannot allay the discontent with economic conditions; and, owing to the limitations of competition, it would even be beyond his power individually to concede to his workmen conditions substantially better than prevailing standards. So we see the problem is not a matter of the liberality of the individual employers, but of general conditions, that can be improved only by a uniform upward pressure which the wage-worker himself must apply."

I will quote a few more lines from the same writer upon

\* Report to the President on the Anthracite Coal Strike, by the Anthracite Coal Strike Commission (58th Congress, Special Session, Senate Document No. 6, p. 76).



another branch of the subject, more to give an example of growing wisdom and conservatism of some of the foremost labor leaders. He says: "The resort to violence by workmen is not to be tolerated, and from an economic standpoint it is unwise. . . . A movement dignified by exalted aims and inspired by the brotherhood spirit, if it depended upon brute force as a means, would soon degenerate into a mob. The provocation to use force is intense under the trying circumstances of a strike, . . . but to indulge in it would justify the antagonism of society, compelled, as it is, to protect itself against such aggressions. The supreme aim of organized society is to make personal vengeance unnecessary, to diminish the necessity for physical force, to make reason and justice govern human affairs."\*

#### OPPOSITION OF THE EXTREMISTS.

I desire to refer to another view of the subject which, unfortunately, obtains among a section of the laborers as well as among some employers, but, I am happy to say, only among the extreme wings of each. Last month, at the meeting of the National Association of Manufacturers, its president devoted a large part of his address to attacking organized labor. Some of his criticisms as to the wrongs and injustice of organized labor were true, but in the main these were negatived in force and effect by a narrow, one-sided, and arbitrary conception of the larger relations of employers and workmen. As to the conciliation, he said: "To my mind this is not the proper time to talk conciliation. . . . Conciliation implies a yielding attitude and a recognition of the validity of distinctive demands made by the opposing side. . . . Neither is it the time to talk arbitration or 'joint agreement.' To arbitrate questions of wages and hours is to introduce artificial methods of determining what they shall be, and an equitable arrangement as to either cannot be effected artificially. . . . Will the employers of this country allow the apparent peace, bought at the price of arbitration, to lull them into a feeling of security? . . . Arbitration is only putting off the day of reckoning. . . . Does it not point to inevitable

\* By Henry White, national secretary United Garment Workers, American Economic Association, February, 1903, pp. 174-180. Same paper in *American Federationist*, April, 1903.

disaster? And is it not the course of wisdom to check an evil in its inception?"\*

Compare this attitude on the part of the president of an organization composed of six hundred manufacturers with that I have quoted from one of the leading representatives of organized labor, and I leave it to you to judge which of these representatives approaches the burning question of the day in a more conservative and conciliatory spirit, with more wisdom and justice.

The attitude of the socialists is likewise uncompromising. They denounce the unions and the leaders of the unions for entering into agreements with employers. They affirm that the class struggle is irrepressible, and that workmen must fight their employers to the bitter end and make no compromise. The leading organ of the socialists, commenting upon the address of the president of the Manufacturers' Association, says he is correct, that an equitable agreement cannot be effected by the artificial methods of conciliation or arbitration, and adds, nothing is so welcomed as the "straight-out tactics" of that association. "Socialism," the editor concludes, "will triumph as a result."†

The president of the American Federation of Labor claims that organized labor has reduced the number of socialists in its ranks from 33 per cent. to less than 8 per cent. If this estimate is correct,—and I am assured it is,—that fact affords the highest evidence of the wise and conservative tendency of the Federation of Labor, deserving not only the approbation, but the gratitude of all patriotic, peace-loving citizens of our country.

### THE OUTLOOK HOPEFUL.

In the past fifteen months, as a member of the Conciliation Committee of the National Civic Federation, I have had frequent conferences with many of the leading labor leaders in the country, and I am free to state my point of view has undergone a complete change in respect to the evolution of the labor question. I have grown more and more hopeful

\* David Parry's Address, president National Association of Manufacturers, New Orleans, April 14, 1903.

† *Daily People*, New York, April 7, 1903. See also *National Civic Federation Review*, April 14, 1903.

that, as this country was the first to organize religious and political equality, it will lead the way to a peaceful co-ordination of the economic forces, by equalizing the opportunities for advancement, which is the nearest practical approach to economic equality. The same inherent reasons and causes which render it impossible to maintain a condition of economic equality between different classes of employers obtain as between workers and employers. We can never by artificial or by arbitrary laws equalize the individual capabilities to achieve success: certainly not this side of the grave; and beyond that point, however vivid may be our hopes, our experiences are entirely lacking. Economic stagnation is not economic equality. They have the same relations to each other as life and death. Success in every sphere of life, in the professions, in the workshop, as well as among the captains of industry, is attained by inborn qualities, plus that margin of energy, industry, and ability which the one man puts into his work above the average man, and every effort to curb those qualities by imposing artificial and arbitrary restraints is to level downwards; and, so far as it concerns workmen, it would be equivalent to decreeing once a workman always a workman, and to deprive him of the very opportunities to attain economic equality. It would effectually shut the doors against his advancement, those doors which in this country have always readily swung open to all, without distinction of class, race, or religion, who have the energy, industry, and ability to deserve admission. The maintenance of the open door of opportunity is a fundamental American doctrine, as old as the Declaration of Independence. In this country especially the democratic spirit is engrafted in the hearts of the people, the popular sympathies are on the side of every legitimate effort of the many to better their conditions, so long as they do not in their struggle trample upon unalienable rights of the individual, "life, liberty, and the pursuit of happiness."

#### ORGANIZATION ON BOTH SIDES.

In conclusion, I have no panaceas to offer as a solvent for the relations of capital and labor. The pessimists see but

one end, the life and death struggle of classes,—such a revolution as devastated the streets of Paris in 1848. But the student of those troublesome times well knows that revolution settled nothing, but caused wide-spread misery and poverty. The solution lies along the lines of evolution, not revolution; and, in my judgment, that evolution will best be promoted, as the first step, by organization on the part of employers in their respective branches of industry. By this means they will be best able to cope with and restrain organized labor in resisting uneconomic demands and unreasonable exactions, and at the same time they will be best able to agree among themselves to accord such terms and conditions as to wages, hours, and employment as tend to improve the standards of life and living among laboring men. Organization among employers will result in placing the adjustment of differences in the hands of experienced and capable men, who will be best qualified by experience and knowledge to treat such matters in a broad and liberal spirit, free from petty enmities and from competitive restraint. Without organization and with unrestrained competition, the well-disposed employer is often prevented from granting his workmen more liberal terms which he regards as reasonable, so long as his less well-disposed competitor holds out against making like reasonable concessions; and, as a result, strikes on the part of organized labor are brought about to correct evils growing out of a lack of harmony among unorganized employers. Besides, strong organization among employers will have a far-reaching moral and disciplinary effect upon labor, and make it easier for the leaders of labor to control their followers and restrain them from making unreasonable demands. The temptations of power which organization gives labor, when not restrained by organized power on the part of employers, is too great not to be misused and tyrannically exercised. Just as among nations one sword keeps the other in its scabbard and makes for peace, so will equality of might conduce to equality of right, and strengthen the forces of wisdom and conservatism on both sides.

## II. DEPARTMENT OF HEALTH.

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### I. PREVENTIVE MEDICINE AND NATURAL SELECTION.

BY CHARLES V. CHAPIN, M.D., OF PROVIDENCE, R.I.

A good deal of criticism is from time to time directed against the humanitarian work of the world, on the ground that it tends towards race deterioration. The principle of natural selection tends to eliminate the inferior elements in the human species, and to result slowly, but surely in racial improvement, by producing individuals better and better fitted for their environment. The work of the physician and surgeon in curing disease, and that of the sanitary official in preventing it, are among the factors which, it is claimed by many, hinder the beneficent workings of natural law by preserving those who are least fitted to survive, and permitting them to increase their kind. It is rarely, if ever, that this matter is considered seriously. Most of the critics confine themselves to general statements, and give the impression that they, after all, consider their position an academic one merely, and scarcely firm enough to warrant the actual restriction of humanitarian measures. We should, however, be ready to discuss this question as fully as possible. If, on so doing, we find that the evidence of the ultimate deteriorating results of our present work is overwhelming, we should frankly admit the truth, and boldly reconsider, from this more difficult position, the problems of disease, pauperism, crime, and other human ills. It is the possible race deterioration resulting from sanitary effort that we are particularly interested in in this section. I am, I fear, not equipped for an exhaustive consideration of this subject, and certainly will not attempt so to treat it; but I have thought much upon it, and perhaps the notions here presented may suggest a further study by more competent persons.

Public health workers are interested, first of all, in the prevention of the communicable diseases, because it is here that their data are the most certain and their work productive of the best immediate results. It is our duty therefore to consider whether this work promotes or retards the action of natural selection, and, if the latter be true, the extent of the retardation, and whether the conditions warrant any change in our attitude or the direction of our labors. Does the prevention of infection lead to ultimate injury of the human species, as is claimed by some? and, if so, is the injury sufficient to warrant the cessation of our work?

Man at present is certainly very poorly adapted to his environment so far as the infectious diseases are concerned. These diseases play a very important part in his life, or, rather, in his sickness and death. An immense amount of human ill, and a very large proportion of deaths, are due to infectious diseases. These infections are due to the invasion of the body by bacteria, protozoa, etc.; and at present man's struggle for existence is largely a struggle with micro-organisms. Natural selection is believed to be the most important factor in the long run in helping species to win in the struggle for survival. What can we expect natural selection to do for man in this particular phase of the struggle?

In order that natural selection should be of avail, it is necessary that some individuals should vary from the normal in such a way as to better fit them to resist disease. There must exist some natural immunity against infection, and this immunity must be hereditary.

Is there such a natural immunity against infectious disease on which natural selection can work? It is generally believed that there is, that individuals vary very greatly as to susceptibility to infection, and also that this variation is much greater in some diseases than in others. Individuals also vary much in their resistance to disease after it is once acquired. It is also believed that this occasional and partial immunity, and also the power of resistance, are congenital. Much remains to be done in the investigation of this subject; and quantitative data as to the prevalence of natural immunity to the different infections are almost entirely lacking though greatly to be desired. With acquired immunity nat-

ural selection has nothing to do. Though in many quarters it is claimed that such qualities as acquired immunity may be inherited, personally, I am unable to discuss the question from that standpoint.

In order that natural selection may operate, it is necessary that the elimination of the unfit should take place in such a manner as to result in their leaving behind fewer mature offspring than the fit. This may be brought about in various ways. In the diseases in question the elimination may take place before the period of sexual maturity, as is the case at present in our own country in measles, scarlet fever, and diphtheria, or the disease in adults may cause sterility or give rise to feeble children, who do not live long, as is the case with the venereal diseases and perhaps tuberculosis.

From what we know of the principles of organic evolution and of the nature and extension of the infectious diseases we are led to the conclusion that natural selection is continuously operating to produce in man an increasing degree of immunity to them. If this is so, is it not also true that the State, so far as it protects the non-immune from infection, interferes with the action of natural selection by the artificial preservation of the unfit? I think this premise may be admitted, and we must acknowledge that the work of health officials in preventing the extension of the communicable diseases is, in the main, antagonistic to natural selection, which is more or less slowly, but surely tending to the evolution of an immune race.

The practical point which I am here venturing to consider is whether we are therefore warranted in abandoning our fight against these diseases and permitting natural selection to have again a free field. Several reasons have occurred to me why we should not.

1. So long as we are unable to exterminate the infectious diseases, natural selection must, notwithstanding all our efforts, continue to operate, though more slowly because of those efforts. As yet we are in most diseases far from the goal of complete control for which we are so earnestly struggling. Hence we are only retarding, not eliminating, natural selection. We may delay the time when the human species shall be immune to existing infections, and by so doing we may

cause the sacrifice of many lives. Whether more suffering and death is entailed by a slow process of natural selection than by a more rapid one, I will leave to the students of biometrical problems to solve; but, even if it should be shown that in the distant end more lives are sacrificed by the slow process, we must set against this the very patent fact that many lives are being saved in the immediate present. It seems to me that we have no right to sacrifice a marked benefit in the present for the earlier realization of a hypothetical result in what at the best must be a very distant future.

2. While partially successful efforts to combat the infectious diseases only serve to retard the process of natural selection, successful efforts, by extinguishing the infection, would render unnecessary alike the artificial contest by the health officer and the natural struggle for existence by the species. It is true that we have not yet exterminated any infectious disease, but we have proceeded far along the road in some instances, as in typhus fever and small-pox; and it is not unreasonable to hope that this much to be desired end may be reached long before natural selection can have established a permanent immunity. At present our principal method of protecting against infection is by isolation, using the term in its broadest sense; and by this means much has been accomplished. But much is daily being learned about the production of artificial immunity, and it is not unreasonable to hope that in the not distant future this may be easily secured against many diseases. It is true there is at present considerable popular prejudice against the induction of artificial immunity; but may we not as reasonably hope for the evolution of greater popular intelligence as for the evolution of natural immunity?

3. We must take into account the wonderful progress of scientific discovery, which at present shows no signs of abatement. We cannot tell what may come to light, even to-morrow, which will put a new weapon in our hands to make us laugh at infection. Surely, we must have enough hope in the future to warrant, not only the continuance, but the re-enforcement of our efforts to preserve life. We ought, so far as this matter is concerned, to do all we can to-day, and let to-morrow take care of itself.



4. We should also remember that the invading micro-organisms are not only carrying on a struggle—a winning one, it is true—with man, but there are many other factors in their existence. They may have or develop enemies, or any number of the conditions of their environment may become hostile or fatal to them; and thus the struggle with man may be ended once and for all without our moving a finger.

5. A few years ago there was clearly set forth in an article by Theobald Smith a fact which is too often forgotten, that the invading pathogenic micro-organisms in their struggle for existence are put at a disadvantage by an excess of virulence. It is of no use to them to kill their host quickly, for by so doing they end their own existence. If the life of the host is prolonged, the organisms will live the longer, and have the greater opportunity of transference to another host. It is evidently for the advantage of the parasite that the host should be only mildly sick, or that the disease should run a chronic course. The tendency, then, is for natural selection to lead pathogenic organisms to lose their virulence. This in the end would lead to their becoming merely harmless parasites. There is some evidence that this condition of things is even now true in certain diseases, as diphtheria and typhoid fever; for we frequently see the diphtheria or typhoid bacilli living for long periods of time in human beings without producing any symptoms of disease. The recent outbreak of small-pox has been unusually mild; and scarlet fever of late years, in this country at least, has rarely shown its old-time severity. There is evidence, then, both deductive and inductive, that infectious diseases tend to assume under natural selection a milder type, and that the invading organisms tend to become harmless parasites. If this is so, then the work of the health officer becomes an aid rather than a hindrance to natural selection in making for the ultimate improvement of the human species. Even the most efficient health officers have cognizance of only a portion of the persons infected with any particular disease. As a rule, those who are severely attacked are known, isolated, and prevented from giving the disease to others. Those who are mildly sick are often, and in some diseases usually, entirely unrestrained, and readily distribute the infection. This mild type, then,

by artificial selection, as well as by natural selection, tends to be maintained; while the severe type tends toward elimination.

It may be objected by some that all pathogenic organisms were once saprophytes or perhaps harmless parasites, without toxine-producing power. This may be admitted, though it is not necessarily true. It is claimed that these organisms have gradually acquired their toxine-producing qualities by the aid of natural selection. This also may be true, but it is also possible that these toxic properties are merely incidental to other physiological qualities, and are not the direct result of selection; but, admitting that the toxicity of these organisms is due to natural selection, there is no inconsistency in the view that natural selection also tends to its elimination. I cannot conceive that toxicity to its host is of any advantage to the organisms in question. If selection has developed toxicity, as it well may have done, it certainly cannot be in connection with its production of disease in its host. It must have been in some other of its numberless relationships to its environment, perhaps during a saprophytic existence, that toxicity was developed. What the resultant would be of these antagonistic tendencies of natural selection in two opposite directions it is impossible to predict. Perhaps it is the varying intensity of this action in one or the other direction in which is to be found the varying severity of different outbreaks of disease. Perhaps the added force of artificial selection, as suggested above, may serve to turn the scale, and induce, it may be, a continuous and quite rapid diminution in the toxicity of the organisms of those diseases which come under the general control of the health officer.

Before closing, one other phase of this subject deserves a moment's notice. The infectious diseases have been held by some to be an important factor in eliminating the feeble, the poorly nourished, and the constitutionally defective. While it is true that such may more readily succumb when attacked by disease, there is no evidence that they are any more susceptible to most of the communicable diseases than are the most robust. The selective action of these diseases cannot therefore be so important a factor in maintaining race stamina as is sometimes assumed.

In conclusion, it appears that natural selection in the relation of man to infection is working for the ultimate good of the race; and, while public health measures are in some respects antagonistic to this process, in others they favor it. Furthermore, the immediate results of preventive measures are so marked, and the chance of overcoming these diseases in the future by other means than the immunity due to selection is so great, that we find no warrant in the principles of organic evolution for abandoning our present warfare.

## 2. POSSIBILITIES OF THE MEDICAL EXAMINER SYSTEM.

BY SAMUEL W. ABBOTT, M.D., OF BOSTON, MASS.

[Read Friday morning, May 15.]

The solemn farce entitled the coroner's inquest has not been enacted in Massachusetts since June 30, 1877. Nearly twenty-six years have now elapsed since the last jury stood with staring eyes and gaping mouth around the body of some luckless tramp just drawn out upon a river's bank or possibly found upon the roadside with a bullet-hole in his skull.

The coroner in Massachusetts in the last two centuries or more might be, as elsewhere, a tinker, a tailor, or possibly an attorney or a physician. He presided over the deliberations of six men, often selected by a village constable from the loafers upon a street corner. These six men were often expected to decide upon questions involving a knowledge either of anatomy, pathology, or toxicology. It is not strange, therefore, that the coroner's inquest has become an object of ridicule, in consequence of its incongruity and lack of adaptation to the changing necessities of modern society. The published collections of verdicts of coroner's juries rival the writings of Mark Twain and of John Phenix.

But this is not the worst that can be said of the system. Life insurance companies have been defrauded by the connivance of dishonest coroners, the fees due to juries and witnesses have been pocketed, valuables found upon the bodies of the dead have been appropriated, and warrants have been made out and fees collected from county treasuries in case of sudden death reported in the newspapers, the bodies never having been seen by the coroner.

In the words of Mr. Tyndale, to whom more than to any one Massachusetts owes her present system of medico-legal inquiry:—

The coroner selected his own jury, had supreme control of the investigation, which with the consent of his jury he

could make secret, had power to summon his own witnesses, hear whom he chose and omit whom he chose, was responsible to no superior authority for his action. He could throw suspicion upon the character of the living, blacken the memory of the dead, and oppress and harass a stricken household without cause and without justification. In one word, he could make an inquest, in the worst sense of the term, an inquisition.

A letter received from a neighboring State relates the following incident:—

A man had shot himself in our city. Hearing of it, the coroner summoned a jury and hastened to the spot, only to find the man still alive. What did these men do? Did they send for a physician, and do their best to revive the victim? Not at all. Selecting the nearest saloon as a waiting place, they waited until the suicide had ceased to breathe, and then held the inquest, employing a boy in the neighborhood as a messenger to keep them informed of the man's condition.

Another incident was the noted Barron case, which occurred in Maine some twenty years ago or more, where a whole community is in doubt, even to this day, as to whether a prominent citizen and bank officer was murdered or committed suicide, the blundering coroner having permitted the body to be buried without an autopsy.

Attempts have been repeatedly made in England, the home of this clumsy system, to make radical changes, but without success, undoubtedly in consequence of the proverbial inertia of the Anglo-Saxon when dealing with old and long-established customs.

Victor Hugo gives a keen satirical thrust at the English inquest system in one of his novels, knowing the decided superiority with which deaths by violence are investigated in his own country.\*

The registrar-general of England confessedly admits a glaring defect of the English system in the following language:

Unfortunately, many coroners appear to think that the exclusive object of an inquest is to ascertain whether a crime has been committed, and ignore altogether the other purposes, scientific and medical, to which inquests are intended to be subservient. Such vague findings as "natural causes,"

\* The story of the Butting Club, in "By Order of the King."

"died by the visitation of God," "sudden deaths," etc., may possibly satisfy the requirements of criminal law, but are utterly inadequate for all other purposes, and cannot be considered as really fulfilling the requirement of the act that the coroner shall state in his certificate what was the cause of death.

What, then, are the defects of the coroner's inquest, and how may they be remedied? The two most radical defects may be summarized as follows:—

1. *The combination in one person of two entirely incongruous functions*,—law and medicine. The object or end of the coroner's inquest is twofold: *first*, to determine the cause of death,—a medical question; and, *second*, to fix the responsibility for the death,—a problem which, especially in cases of homicide, involves a knowledge of law. It is, therefore, plainly an absurdity to unite both of these functions in one person. It is true that an occasional professor of medical jurisprudence might be found who combines both branches of training; but to expect that such persons can be found in every district requiring the services of an official empowered to investigate deaths by violence is clearly impossible.

It is not remarkable that in the remote periods of history, when lands were sparsely settled and both medical and legal training were in their infancy, such a union of functions should be vested in one individual; but it is not creditable to the good sense of the marvellously progressive profession of medicine that it should still continue to tolerate a condition of affairs so inconsistent with modern progress. It is the glaring inconsistency of attempting to successfully combine two professions in one official that so often makes the inquest a source of ridicule.

2. *The retention of the jury*. We here find a needless body of men, called upon in many instances to decide upon technical questions which can far better be settled by a single expert, well trained for the purpose. The jury is not only needless, but expensive, since it involves the payment of a half-dozen men (in some States twelve) for services which can be better performed by a single expert. Thousands of deaths by violence have been investigated in Germany, France, and other countries in a far more thorough and satisfactory

manner than is done in England and the United States, and this without the needless intervention of a jury. It is needless for the reason that, in every case of death by criminal means, a jury must finally decide the responsibility of the criminal in a court of law. Why, then, should two juries act in the case when one only is necessary? Another evidence of the inconsistency of the coroner's inquest is the fact that the findings of such deliberative bodies are very often the subject of ridicule in the columns of the daily press.

How, then, may these defects be remedied, and what difficulties stand in the way?

Abolish the coroner and his jury by act of legislature, and substitute in their places a corps of well-trained medical experts, whose duty it shall be to investigate all deaths by violence, and then report them to designated judicial authorities for further investigation, thus separating the medical from the legal function, and delegating each to its proper set of officials.

If it happens that the coroner is a constitutional officer, then it may become necessary to amend the constitution in order to get rid of him. It may happen, also, that the coroner has unusual political influence. In such cases the more thoroughly the incongruity of this office and the needless expense of the jury are exposed, the better for the State and the whole community. (For example, the relative expense of conducting investigations of deaths by violence in New York City is at least three times as great as it is in Boston.) Enlightened public opinion will usually lend its aid in accomplishing the desired end.

As an example of the successful working of such an improved system, I need only refer to the experience of Massachusetts, which has had neither coroner nor jury for nearly twenty-six years, during which time about 43,000 cases of violent, suspicious, and sudden deaths have been investigated in the most careful and thorough manner and with less expense than was possible under the old system. The radical overturn wrought by the enactment of the law of 1877, abolishing the coroner and his jury, has been one of the most satisfactory changes ever effected in the history of State legislation.

How can the medical examiner system be made to sub-

serve other purposes than that of investigating deaths by violent causes?

The registration of deaths in the older States of the Union, notwithstanding its long existence, is still in a more or less unsatisfactory condition, so far as the registration of uncertified deaths is concerned, and in this respect resembles the English registration. In 1893 a parliamentary investigation was made upon this important question, but no satisfactory action appears to have been taken as a consequence. In England, in 1900, the number of uncertified deaths amounted to 11,257, or very nearly 2 per cent. of the whole number of deaths. In Edinburgh they were occasionally as many as 8 per cent., and in some parts of Scotland from 25 to 45 per cent., of all deaths.\*

The following points are worthy of notice in this connection:—

1. The facilities for burials of persons the cause of whose death is not certified.
2. The want of identification of the deceased.
3. The want of careful certification of the details of the last illness. In support of this point is the fact that at least a score of persons in this State are known to have come to their death in consequence of the deliberate action of two women, while the death certificates in these cases show nothing more than deaths from natural causes.

Probably the majority of deaths which occur in the practice of registered physicians are not witnessed by such physicians, and in most of them the bodies are not seen by them after the death occurs, the certificate being made out and signed in consequence of information imparted at second hand by some relative or other person. The attending physician is not absolutely certain either as to the fact of death or as to the particular circumstances attending its occurrence.

4. The want of expert investigation into all cases of death which occur where there was no medical attendant.

5. The want of reliable proof that the supposed deceased person is dead. How often life insurance companies in this country have been deceived in this direction no one can tell. At any rate, it is a notorious fact that such occurrences have become quite frequent in recent years.

\* Hime's "Practical Guide to the Public Health Acts," p. 235.



The need of radical reform in this general direction of death certification is sufficiently apparent; and, if it is not practicable to introduce the system now in force in some parts of continental Europe, whereby everybody is seen by an official other than the attending physician before burial, there should at least be some legal provision whereby *uncertified* deaths, and especially those of persons who have died without any attending physician, should be investigated by some competent authority designated for the purpose.

A few years since an attempt was made by several physicians representing different boards of health to secure the enactment of a law which would require such certification to be made (so far as related to hitherto uncertified deaths); and it was proposed to intrust this duty to the medical examiners who had so successfully carried out the work of the medical examiner system of the State. In accordance with the terms of the present law these physicians are "able and discreet men, learned in the science of medicine," and are therefore fully qualified to perform the contemplated duty.

The movement failed, but the necessity is as urgent as ever; and any objections which then existed on account of an insufficiency in the number of officials required for this purpose are now greatly diminished, since an amendment to the medical examiner act now provides a much larger number of physicians, it being possible under this act to double the number of existing examiners by the appointment of associates, and most of these positions have already been filled.

### 3. WHAT TRAINING IN PHYSIOLOGY AND HYGIENE MAY WE REASONABLY EXPECT OF THE PUB- LIC SCHOOLS?

BY WILLIAM T. SEDGWICK AND THEODORE HOUGH, OF THE  
INSTITUTE OF TECHNOLOGY, BOSTON, MASS.

[Read Friday morning, May 15.]

In the public schools of to-day various subjects are taught, and for various reasons. Some, like arithmetic or the reading and writing of English, are indispensable tools of modern civilized life; others, like geography and history, impart necessary information or promote general intelligence; still others, like algebra, geometry, and Latin, are agents of mental discipline or else afford necessary preparation for subsequent work. Physiology and hygiene, the study with which we are concerned in the present paper, were introduced into the public schools for the express purpose of affording information concerning the structure and functions of the human body, being expected thereby to contribute to the preservation and promotion of health; and they have kept their place, in spite of serious shortcomings, as a concession to the practical importance of sound ideas concerning health and disease.

The training which may reasonably be expected in the reading and writing of English, in arithmetic, in geography, or in Latin, is the subject of frequent discussion in educational gatherings and is doubtless influenced by such discussions; but it is determined chiefly by the examination requirements of the upper grades and by the entrance requirements of higher educational institutions. With physiology and hygiene the case is different. Proficiency in these is rarely made a condition of promotion. They are seldom included in the list of requirements for admission to colleges or technical schools, and never in those for medical schools. They are not often much considered in educational congresses. And yet it is doubtful whether any subject in the whole curriculum of the public schools is of greater intrinsic importance

as a preparation for life, or is capable of affecting more profoundly the whole mental attitude of men and women toward an enduring and well-organized civilization.

The real importance of physiology and hygiene is unquestionably far greater to-day than it was twenty-five years ago. At that time physiology was a new science. It was still commonly taught in medical schools as an adjunct to anatomy, and the double-headed professorship of anatomy and physiology had not then become extinct. As for hygiene, this was largely a body of precepts based upon *a priori* reasoning, or else of deductions derived jointly from anatomical knowledge, common experience, and common sense. Disease was only a little more baffling than health, and the promotion of one poorly understood condition by the prevention of one still less comprehended was not only a most unsatisfactory, but a most unscientific undertaking. Nevertheless, in spite of this difficulty and uncertainty, physiology and hygiene, such as they were, have steadfastly held their place in the curriculum of the public schools, no doubt because of an unconquerable belief that they should somehow furnish to the developing mind and the forming character some real and lasting help in the preparation for life.

And at last this belief seems likely to bear fruit and to justify its long and patient expectation. For to-day physiology has won an established and recognized position as an independent science. It has become entirely separated from anatomy. It has its own professors in our medical schools and universities. We have a strong and active American Physiological Society, composed of expert investigators and teachers, and a flourishing American Physiological Journal, which publishes regularly budgets of important discoveries.

In hygiene the progress has been even more remarkable. Twenty years ago the infectious diseases were as mysterious as ever, but to-day we understand the essentials of their operation and also to a great extent the mechanism of their dissemination and therefore in many cases the ways of their prevention. The clouds of mystery which until lately hung about them have been largely cleared away, and a new hygiene, based partly upon experimental physiology and partly upon experimental medicine, has come into being. Meantime

an enlightened sanitary engineering is building improved sewers and water-works, and dealing with the purification of sewage and water, with the construction of sanitary pavements, with the dust nuisance, and with efficient scavenging and garbage destruction. Boards of health are equipped with laboratories for sanitary testing and research. They are supervising the medical inspection of schools. They are isolating cases of infectious disease and securing the disinfection of clothing and of houses. They are enforcing vaccination. They are vacating unwholesome dwellings.

Educators themselves are engaged in hygienic endeavors. They are providing for playgrounds. They are beginning to attend as never before to the ventilation of school buildings. They are interested in the lighting of school-rooms, in the seating of the pupils, and in their sight and hearing. The home is also receiving the attention of hygienists; and its site, its drainage, its wall papers, its ventilation, its cookery are undergoing careful investigation.

And, finally, personal hygiene,—the care of the individual body, its exercise, its fatigue, its work, its rest, its play, its clothing, its bathing, its hunger and thirst and sleep, its growth and its old age,—all these are dealt with to-day, not superficially and by tradition or experience alone, as formerly, but also by experiment. Physiology and hygiene have become experimental sciences, and have thus taken on a new and higher value. In view of all these marvellous changes, we may properly ask and undertake to answer the question which forms the subject of this paper.

But first and always we must keep steadfastly in mind the end and object sought for by the training under consideration. This has always been and still is primarily practical and technical; namely, a sound preparation for the right conduct of physical life. For although it is one argument for increasing the efficiency of instruction in these subjects that they give information on matters of great human interest, and that, when rightly taught, they are of high educational value, still the primary purpose of teaching them is not to give information nor mental discipline, but because their subject matter is of immediate and enduring importance in determining and promoting the right conduct of the physi-

cal life, and especially the preservation and promotion of health. Their value is special rather than general, practical rather than cultural, technical rather than disciplinary.

We may confess frankly that physiology and hygiene have not always hitherto justified their place in the curriculum by their results. It would be going too far to deny that they have been without influence, or that in exceptional cases they have not been valuable; but they certainly have not, on the whole, accomplished what was originally expected of them. Their results have been disappointing, and it is by no means unusual to hear competent educators express the opinion that it would be better to drop them altogether. Physiology and hygiene are too frequently looked upon by school authorities as an unavoidable necessity, and by teachers and pupils as a bore. And yet we doubt whether any of these superintendents or teachers would care to take the responsibility of banishing them altogether from the curriculum. They may not be a success; but the conviction remains that they ought to be a success, and doubtless the hope, however faint, that some day they may be.

The present unfortunate condition of affairs, in our opinion, is due largely to the fact that the primary purpose of these subjects in the curriculum has been neglected or forgotten. They were perhaps introduced prematurely, as has been suggested; fifty years ago anatomy was the one branch of medical science about which definite statements could be made, but little was known about physiology, and the great field of hygiene was largely a matter either of popular tradition or impressions derived from personal experience, often, indeed, surprisingly accurate, but nevertheless lacking in the certainty of experimentally demonstrated fact.

It is only exact knowledge which lends itself to school instruction. We do not teach electricity in our courses in physics by speculating about thunderbolts or the nature of magnetism, but by telling what we know of the production, the conduction, or the induction of electrical energy. We leave the region of the indefinite to the investigator. It is easy to see, therefore, how it came about that in planning the work in physiology and hygiene in schools the details of gross and minute anatomy should have formed the major part

of the whole. Function was treated but sparingly, because very little was known about it; and considerations of health and disease occupied an insignificant place simply because about them definite statements could not possibly be made. The instruction in school physiology and hygiene was preponderatingly anatomical for the reason that the dissecting-room was the sole laboratory of the medical school. It was the one region of real and accurate knowledge of the subject.

We have said above that this condition of hygienic knowledge has been entirely transformed during the past twenty years. The physician is far less mysterious in his manner than formerly, because his fund of knowledge is vastly greater. He often explains his reasons to his patient, and discusses the facts of his profession with "the laity," where he would not have done so fifty years ago. It was within twenty years that one of our leading pathologists was heard to define malaria by remarking, "When you don't know what it is, it is malaria." To-day he would not give that definition, but would delight to describe the wonderful story of those discoveries which in the past twenty years have led to our satisfactory understanding of the nature and mode of dissemination of this disease.

The teaching of physiology and hygiene in the public schools has lagged far behind this march of medical and hygienic progress. It is inexcusably behind the times. We now have facts which any one can teach and which should be made known as a preparation for the proper conduct of life; and it is these facts which should form the main part of the teaching. The subject-matter should be thoroughly revised, and in no more important particular than the restriction of anatomy to the minimum amount needed to give a clear conception of the general structure of the body as a mechanism and of the normal working of that mechanism. In a rural school-house on the Maine coast we once saw upon the blackboard, painfully written down by a fisherman's child, a long and learned list of the bones found in the human body. Even for a medical student the list, as such, apart from the physiology and surgery of the bones, would have been of small value; for the children of fishermen, the bones of the cod or haddock or of the domestic animals would probably

have been of greater consequence. An arid osteology is a poor introduction to the study of modern hygiene, nor is it calculated to arouse a compelling interest in the subject.

Similar considerations hold with regard to the teaching of physiology. The educational value of this science, it is true, is much greater than that of pure anatomy; for, in the first place, it is more interesting, not only in childhood, but throughout life. We do not care greatly about the parts of a machine unless we know or can guess their use. From this point of view physiology is a good teaching subject, and all the more so because it deals with a machine in which most of us are naturally interested. The study of the activities of the human body has also the highest philosophic value. It imparts that first and most important lesson for the conduct of life,—a lesson which every person leaving the upper grades of the public schools should carry away with him,—that the human body has a material basis and is a mechanism, a machine. We must constantly recall, in order to emphasize Huxley's statement, that "the distinctive feature of modern as contrasted with ancient physiology" is "the fundamental conception of the living body as a physical mechanism." That this fact is not with most people a part of the philosophy of living is shown by the use and abuse of patent medicines and the frequent neglect of the commonest care of the body such as would be wisely bestowed on a watch or a bicycle.

We have urged that anatomy has no place in the public school curriculum except as it is necessary to the understanding of the problems of physiology and hygiene; and we shall see it cut down to the minimum needed for this purpose without the slightest regret. We should not feel the same if physiology were similarly made strictly subservient to personal hygiene,—that is, if, in doing so, its philosophical value were neglected; but, fortunately, this is not necessary. The physiology which is most useful in understanding the problems of personal hygiene is almost exactly the same body of facts which has the greatest philosophic value, and the method of presenting them is the same for the one purpose as for the other. We have not the time to enter into details in this matter, but we are speaking from experience and are sure of our

ground. The instruction in physiology should aim at the outlines of the more important functions of muscular contraction, nervous activity, circulation, nutrition, temperature-regulation,—all of these expressed as far as possible in terms of physics and chemistry. It should endeavor to avoid needless details. To take but one example, the pupil should understand that the heart is a force pump, but it is not necessary that he should understand the exact structure or mechanism of the auriculo-ventricular valves.

Again, physiology should not be made primarily, or even to any large extent in public schools a means of laboratory training. Such training can be had more readily and more advantageously in chemistry and physics. To attempt to give the same laboratory training in physiology as in these would inevitably be to consume that time which is urgently needed for hygiene. The fundamental facts of physiology can be demonstrated and enforced in the laboratory, even in common schools, without much difficulty, and we would not for a moment depreciate the value or the necessity of a certain amount of this kind of instruction; but the use of the laboratory (always time-consuming) must not be allowed to distract attention from the true aim of this work or to interfere with its complete realization.

A course of moderate length in physiology should suffice to impart enough facts of structure and function to furnish a solid basis for sound training in hygiene, and to give meanwhile an abiding sense of the material composition and mechanical character of the human body and its environment and operation. With so much of preparation it becomes easy to pass on to a practical consideration of health and disease, the means of promoting the former and of avoiding the latter. Health becomes simply normal, disease abnormal, living. Such terms as "constitution," "strength," "weakness," "feebleness," "robustness," are easily understood by simple reference to mechanisms well or poorly made or to structures strong or weak. Wounds become interferences caused by invasions or damage by extraneous matters,—bullets, knives, parasites, clubs, dogs, slivers,—which are as obviously out of place as dirt in the works of watches. Germs are microscopic invaders, microscopic para-



sites. They enter and wound and kill, not mysteriously but by damaging or interfering with the human mechanism. Best of all they can often be kept out by the avoidance of exposure, as truly as bullets can.

Passing now to the strictly hygienic part of the subject, first in logical sequence comes personal hygiene, the proper regulation of the activities of individual life,—muscular work, mental activity, feeding, the protection against colds and other inflammations, the care of the body by bathing and clothing and the like. These should not be given in short paragraphs which, like after-thoughts, conclude the chapters in anatomy or physiology, but should be separately and fully treated for their own sake and from the standpoint of the organism as a whole rather than from that of special organs. These are subjects about which every one needs real and true information, and sooner or later seeks it. Shall such information be obtained from the public schools or sought unwisely in the brazen advertisements of magazine originators of new systems of physical training, or in the rash and not disinterested advice of advocates of new breakfast foods?

Modern hygiene begins with the individual, but deals also with the hygiene of the family, of the community, of states, and of nations. In a rapid review of the place which these branches of the subject should occupy in our preparation for sound private and public life, it must not be forgotten that the great majority of the pupils in our public schools have no opportunity or intention to enter colleges or higher schools, and yet are likely to become householders, housekeepers, heads of families or citizens. The principles underlying household or domestic hygiene and sanitation therefore claim some consideration at their hands. These would include such questions as the proper site of the house, the value of fireplaces as ventilators, the importance of wall papers free from arsenic, the advantages of bare floors and simple rugs as compared with carpets difficult to clean, the importance of a pure and abundant water supply, the desirability of prompt removal of wastes by drainage and by such other devices for rural communities as may be made most sanitary under the circumstances, the dangers of damp

cellars with the reasons why cellar dwellings have so often been prohibited by law, the dangers of illuminating gas, especially the modern so-called "water gas," the need of careful consideration and frequent inspection of gas fixtures to avoid small but dangerous leaks, and other similar matters bearing directly or indirectly upon the welfare and sanitary condition of the home. Here might well be told the truth in regard to the advantages and disadvantages of cesspools and sewers, and leaky or otherwise defective plumbing.

Place should also be found, and might easily be made by the sacrifice of some osteology and histology, for a brief consideration of the health of communities, such as thickly settled neighborhoods, growing towns or cities; of the dangers attending impure water supplies and defective sewerage systems; and the importance of methods for the sanitary removal and disposal of garbage, rubbish, and the other wastes of life. Something might well be said regarding the need of proper municipal supervision of all these matters as the essential of a rational municipal sanitation and of the sanitary value of good public service. Here also might be taken up the advantages and the cost of municipal parks, playgrounds, and gymnasias, of public lavatories, water-closets, and wash-houses; of smoke abatement and noise suppression; something regarding clean streets and the thoughtless scattering of papers, banana skins, and the like rubbish, which necessitates a costly scavenging; something regarding pure ice and especially pure milk,—problems in the solution of which all classes of the community must eventually take an active interest and participation, if reform is to come.

And, finally, room should be found for a brief explanation of quarantine, its advantages and disadvantages; the isolation of cases of infectious disease and the reason why it is so essential, though so inconvenient; the necessity for public hospitals for contagious diseases and for municipal or State sanatoria for tuberculosis; the fundamental problems of international hygiene; food inspection, such as that conducted by the federal government for trichinosis in pork to be exported to foreign countries; diseased meat and other problems calling for intelligent co-operation of the citizens in national and international hygiene.

Trained along these lines, the youth of America, whether or not afterward going to college or technical school, would enter upon their maturer life with a realizing sense of the general structure and operation of the body as a physical mechanism and the necessity of obedience to physical laws. They would have become familiar with the sources of diseases and with some of the more obvious ways of avoiding them. They would have some intimation of their duty, not only to themselves and to any families which they might afterwards have, but also in regard to wholesome houses, pure supplies, the safe disposal of wastes, and some of the problems of the municipality and even of the nation of which they are units.

We have, of course, to meet the important objection which will be urged against our point of view; namely, that, desirable as all these things may be, the time available is too short for proper dealing with them. This, however, we deny. Time enough to do all these things and to do them well either is now or lately has been found in the public schools in the various courses for instruction in physiology and hygiene. It will be necessary, it is true, to revise and bring up to date our subject-matter and our methods of instruction. We must teach less about bone and sinew, and more about muscle and nerve. We must teach less about anatomy and histology, and more about the germ theory of disease, about polluted water and polluted milk. We must simplify every statement and eliminate everything unimportant. We must not seek to make of physiology a training in the precision of measurements, or in scientific method, or in anatomy, or physiological chemistry. Some experiments must be made, and demonstrations must abound; but we must keep steadily in view the practical object for which chiefly time is, and long has been, dedicated to physiology and hygiene,—namely, the rational conduct of physical life.

Above all, we must insist upon relief from the incubus of "scientific temperance" instruction, so called, which has too long rested upon the teaching of physiology and hygiene, winding its tentacles about it, octopus-like, sapping its strength and crushing out its usefulness. On this subject let us have no misunderstanding. The evil effects of the use of alcoholic drinks must be fully and clearly inculcated.

The youth of America must be thoroughly informed of the insidious dangers which lurk about strong drink. But, on the other hand, we must never forget that the public schools are no place for any propaganda, and that the freedom of teaching must not be surrendered even to reformers.

Whether we are pleased with the fact or not, modern life has become more strenuous. In order to achieve success, the individual must do more in a given time. Hence the urgent importance of a personal hygiene which shall really guide him in the proper care of the body. Meantime the care of the public health has become one of the most important functions of government, and it will be increasingly important in the future. Its success in America must largely depend upon an enlightened citizenship to which it can look for support. We now teach history and economics and civics with some reference to the future life of the public school pupil as a citizen. Our teaching of hygiene should keep in view a similar end, and if this paper draws attention to the lamentable inadequacy of our present instruction for this purpose, our object in preparing it will have been largely accomplished.

But still more is needed. We require a clear conception of the true place of physiology and hygiene, but we need also the proper teachers to realize that conception. If the subject is as important as we have represented it, it should be taught by teachers specially trained. In the higher grades of our schools we have special teachers of languages, of history and civics, of mathematics, of the natural sciences; but it is rare indeed to find physiology and hygiene in the hands of expert teachers who have had special training in the subject. Too frequently it is imposed upon the least experienced member of the staff, whose connection with the school is too recent or whose tenure is too precarious to permit opposition. All this must be changed. The exact method of securing the trained instructor may well be left to local conditions. At times, medical examiners, the demands of whose practice are not distracting and who are at the same time good teachers, may fill the position; at other times, teachers of the biological sciences may be encouraged to prepare themselves for the work.

A method which especially commends itself to us is to combine this work with that of physical training. The teachers of physical training, of all the instructing staff of the school, stand in closest relation to the work of preservation and promotion of sound health. At present their work is somewhat narrow, and suffers from the lack of any direct explanation of the principles of physical training. It would broaden the work of these teachers, and make their present efforts more effective, if these two branches so obviously related were placed in their hands. True, it would require broader preparation and an extension of the work of our normal schools of physical training both in time and scope; but this is really an argument in its favor. Normal schools of physical training should extend their courses, especially in view of the fact that so many of their graduates must occupy positions in the higher grades.

There is certainly a wide-spread feeling that our present training in physiology and hygiene in the public schools is a failure; but signs are not lacking of a strong feeling among prominent educators that the subjects can and should rank in dignity and usefulness with languages, mathematics, physics, chemistry, biology, history, and civics. Physiologists have long protested against the domination and excesses of "temperance physiology." Educators have complained of the bad pedagogical requirements often placed by law upon the teaching of the subject. We appeal to the members of the American Social Science Association to aid us in bringing about reform, not as parties to either side of a dispute on questions of scientific fact about alcohol, nor from the standpoint of pedagogic theory and practice, but because the subject is one which profoundly affects social conditions and is closely related to a more intelligent individual and social American life.

#### 4. DEATHS BY POISON IN MASSACHUSETTS.

BY ROBERT AMORY, M.D., OF BOSTON, MASS.

*Mr. Chairman*,—I regret that your sudden call upon me to present a paper before this section will oblige me to give only a rambling talk to be gathered from some loose notes which I have been collecting during the past six weeks for another object which I had in view.

It is hardly necessary for me to state that I well know that the consideration of the subject may result in an undigested mass of detail which may be confusing to our audience, and for which fact I apologize in advance.

My subject is rather a sad one,—“Deaths by Poison in Massachusetts.”

Many writers on toxicology have attempted to define what constitutes a “poison,” but definite bounds of description are so misleading that for our present purposes it will be better to consider that a poison is any substance that is capable of destroying life with, perhaps, the exclusion of mechanical means and weapons which kill.

Many substances swallowed in ordinary quantities in health, in and under well-known circumstances, may not be recognized as poisonous; but, in unusual quantities and under unusual and extraordinary conditions, these may produce dangerous and sometimes fatal results.

To illustrate: articles of food are not considered poisonous, but under certain conditions these may have undergone a change in their physical composition, in which they become very injurious to health, and even may be converted into active poisons. Food articles may be by juxtaposition with other organic substances, heat of the atmosphere, and moisture subjected to such conditions that they may be a nidus of fermentation. When swallowed in this condition, the process may go still further, and develop an irritation in the intestinal canal where it will form the noxious substance, called by physiologists a ptomaine. These ptomaines, the result of well-known physico-chemical processes, may be ab-

sorbed into the circulation, and cause peculiar symptoms of intoxication of the poisonous substance.

The production of these ptomaines is generally attributed to the presence of bacterial growths, visible under the magnifying power of a microscope, and definitely recognized by the experienced biologist. These growths may exist in the tissues of the living as well as the dead body. Many of the ptomaines give similar chemical reactions, which are with difficulty distinguishable from reactions to chemical tests given in the presence of organic poisons, from the vegetable kingdom, called alkaloids. There are other means, however, by which these two classes of poisons may be distinguished. The older name of ptomaine has more recently been superseded by the use of the word "toxin."

Again, water is a substance which is generally admitted to be innoxious; yet its immoderate ingestion into the stomach of a person in health, especially when forcibly introduced, is not only attended with discomfort, but sometimes with great danger to health as well as to life.

I should also mention the serious symptoms which are often observed to follow the ingestion of the growth of certain fungi on rye and other cereals, which is more familiarly known to you as "ergot." So, also, the eating of mussels and other shell animals which have been taken from stagnant water, or of food taken from unwholesome surroundings,—these may cause gastro-intestinal disturbances; while water containing the disease germs may produce typhoid and other dangers to life. These citations of a few instances which are quite familiar to us illustrate how very difficult it is to narrowly define what constitutes a poison. Let us go a little further into this subject. Sometimes even an ordinarily well-known disease may be confused with the poisonous action of a noxious substance. A recent writer on toxicology mentions a case in England in the town of Middleborough where some American bacon which had been placed on an iron grating, from which emanated a gas resulting from decomposition of organic matter below, so changed the character of the bacon that many of those who ate the bacon were the victims of an attack of pneumonia. The persons who partook of this food preferred to eat it simply warmed over the fire, and not subjected to

a thorough cooking. In these cases the ordinary diplococcus of pneumonia was not found, but one which differed from it in appearance under the microscope, and which was also capable of giving pneumonia.

Canned meats are also capable of acting as food poisoning. If, in preparing these canned meats or vegetables, care is not taken to drive out all the atmospheric air by thoroughly boiling the liquid contained in the mixture, a decomposition may occur, followed by a fermentation in the organic compound, resulting in making an innocuous substance into a noxious substance. The fermentation once started in the closed can will continue for a long time under favorable atmospherical conditions. When opened, the contents may not always look, smell, or taste differently from those in a can in which no similar untoward action has taken place; and yet one can in a package may be injurious, and another wholesome. Such was the case in the American army camps during the recent Cuban war.

The scope of my paper does not permit an extended discussion of the action of poison upon our human bodies, nor would it be interesting to this audience. I would like, however, to call your attention to some of the methods by which a poison may find its way into our system.

Volatile poisons and gases may be inhaled by the lungs, and so presented to a large surface of a thin membrane tissue in which are imbedded a very minute and tenuous system of vessels filled with a rapidly circulating blood; this is greedy to absorb any vapor or gas which will not do violence to the delicate structure tissue which separates it from the air space that surrounds it, and which will not destroy its peculiar active little cells upon which its active functions depend for the grasping desire for the absorption of non-irritating volatiles. On the other hand, irritating substances of a volatile gas or vapor may by inhalation be presented to the same surface of absorptive tissue, which it may destroy by its local irritating action, the result of which will be a morbid or pathological change. It will then not absorb from the outside, and will discharge from its interior its fluids, and itself become swollen up and incapacitated from performing its function of absorption. A noxious volatile substance which will produce this effect is ammonia.



Liquid or solid substances introduced into the stomach by means of the mouth may, by its irritating effect, cause an inflammation of the mouth, throat, gullet, and the stomach itself. It may be easily understood that the irritation may be more serious than simple inflammation, and may approach that of a corrosive action, and partially destroy the lining tissue of these passages. This irritating or destructive injury may even extend to the alimentary canal beyond the stomach. This is what is technically called a gastro-intestinal irritation. The result of the corrosive and destructive effect upon these tissues may even in the first period after the ingestion of the noxious substance cause such a shock to the animal system as to cause death in a very short time. A noxious substance of this character is *strong* carbolic acid.

Returning again to the inhalation of volatile poisonous substances, I would call your attention to a certain class of these which may not irritate by their presence the absorbing surface of the lungs, and so may pass into the circulation of the blood, and from thence to the whole body. The presence of this poison within the circulation may destroy the functions of the living organs necessary to the maintenance of life. An example of this character is shown by the vapor of prussic acid. In this instance death may be almost instantaneous or within a very few minutes. There are also poisonous substances which do not provoke irritating or corrosive action upon the tissue lining the entrance to the stomach and the alimentary canal, and yet are so quickly absorbed by this channel directly into the blood circulation by the assimilating processes connected with the digestive tract as to cause death in a very short time. Poisons of this class are strychnine and morphine (so-called alkaloids of *nux vomica* and opium).

You may notice that I make no mention of symptoms which follow the administration of poisons, and which hardly would be in place before this audience. It is well, however, to make mention of what is well known to the physiologist; viz., that the small intestine is the great absorbent organ of the digestive tract, while the large intestine is an eliminating organ; so are also the kidneys, and the lungs by their exhalations. Consequently, the quantity of any poison which may cause injury to the living tissues in the body, and destroy their func-

tions of life, is dependent not so much upon the amount of the substance which is administered as by the quantity which is retained within the system in contact with these tissues. This is dependent on the rapidity of the elimination after the ingestion. A remarkable instance of this relation between absorption and elimination is shown by one of the poisons which I have previously named, prussic acid. Several years ago, while studying the effects of this poison upon animal life, I found that six or eight drops of a solution of this poison would destroy the life of a cat or a dog in less than a minute, while an ounce of this solution (or 240 drops) could be administered to a horse without producing any serious effect. Repetition of this dose in half-hour intervals caused slight distress, but not death. In other words, the poison was so rapidly eliminated that it was difficult to retain in his system a sufficient quantity to stop the action of the heart, which is the immediate cause of death with this poison.

In gathering and tabulating from the records on file in the Department of State in Massachusetts, a few considerations of details have occurred to me which suggests some serious as well as interesting subjects for our reflection, and for comparison with other localities. I shall take up the classified deaths from poison by suicide, accident and homicide.

The total number of deaths caused by poisons during the past twenty-four years, as shown by the vital statistics of Massachusetts, amounts in round numbers to 2,000. Of this number 1,404 were suicides, 642 were accidents and 34 were homicides.

There were

409 deaths caused by suicide from arsenic compounds					
375	"	"	"	"	" opium preparations
136	"	"	"	"	" carbolic acid
73	"	"	"	"	" prussic acid and cyanides
34	"	"	"	"	" wood (methylic) alcohol
44	"	"	"	"	" chloroform
37	"	"	"	"	" chloral-hydrate
32	"	"	"	"	" corrosive sublimate (mercury)
28	"	"	"	"	" strychnine
16	"	"	"	"	" aconite
79	"	"	"	"	" other poisons
141	"	"	"	"	" illuminating gas *

Total, 1,404

\* 13 years only.

## Of the deaths from accident or negligence

74	were the result of poisoning by opium preparations
32	" " " " " " arsenic compounds
22	" " " " " " carbolic acid
16	" " " " " " strychnine
11	" " " " " " wood alcohol
15	" " " " " " chloral-hydrate
9	" " " " " " corrosive sublimate
6	" " " " " " phosphorus
6	" " " " " " ptomaines and injurious foods
10	" " " " " " oil of checkerberry and winter-green
6	" " " " " " chloroform
6	" " " " " " prussic acid and cyanides
5	" " " " " " ammonia
10	" " " " " " alcoholic substances
3	" " " " " " atropine
3	" " " " " " charcoal fumes
2	" " " " " " acetanilide
2	" " " " " " cresoline
5	" " " " " " aconite
4	" " " " " " oxalic acid
2	" " " " " " nitric acid
2	" " " " " " wild parsnip root
2	" " " " " " digitalis
2	" " " " " " fly paper
2	" " " " " " naphtha
3	" " " " " " mercury binitrate
33	" " " " " " other poisons
349	" " " " " " illuminating gas *
Total, 642	

## Deaths by homicide

Arsenic compounds . . . . .	9
Alcohol . . . . .	1
Opium preparations . . . . .	3
Chloral-hydrate . . . . .	1
Strychnine . . . . .	2
Zinc salts . . . . .	1
Turpentine . . . . .	1
Oil of hemlock . . . . .	1
" " cedar . . . . .	1
" " tansy . . . . .	1
Kerosene . . . . .	1
Other poisons . . . . .	12

We have an opportunity of comparison of these statistics with those of a population thirteen times larger than that of Massachusetts, as shown in England and Wales, by referring to a book recently published ("Poisons: Their Effects and Detections." Third edition. London: Charles Griffin & Co. 1895). In this work Mr. Alexander Blyth gives a list of cases of individuals who have died from poison in England and Wales (6,616 persons) in ten years, 1883-92.

## POISON BY SUICIDE.

	No. Both Sexes.
Opium . . . . .	497
Carbolic acid . . . . .	490
Prussic acid and cyanides . . . . .	344
Tartaric acid . . . . .	200
Oxalic acid . . . . .	138
Strychnine (nux vomica) . . . . .	150
"Vermin-killer" . . . . .	118
Phosphorus . . . . .	84
Sulphuric acid . . . . .	53
Arsenic . . . . .	57
Ammonia . . . . .	34
Nitric acid . . . . .	27
Belladonna . . . . .	20
Aconite . . . . .	19
"Soothing syrup" . . . . .	16
Chloroform . . . . .	16
Potassic bichromate . . . . .	10
Poisonous weeds . . . . .	10
Other poisons . . . . .	501
Total . . . . .	2,784

## POISON BY ACCIDENT OR NEGLIGENCE.

	No. Both Sexes.
Lead . . . . .	1,040
Opium . . . . .	876
Carbolic acid . . . . .	270
Chloral . . . . .	111
Alcohol . . . . .	105
Chloroform . . . . .	98
Phosphorus . . . . .	71
Hydrochloric acid . . . . .	66
Ammonia . . . . .	64

	No. Both Sexes.
Belladonna . . . . .	56
Antimony . . . . .	51
Prussic acid and cyanides . . . . .	68
Strychnine and nux vomica . . . . .	41
Chlorodyne . . . . .	40
Aconite . . . . .	40
Sulphuric acid . . . . .	39
Nitric acid . . . . .	25
Tartaric acid . . . . .	23
Oxalic acid . . . . .	23
Ether . . . . .	7
Arsenic . . . . .	51
Mercury . . . . .	33
Sulphuric acid . . . . .	39
Soda and potash (caustic) . . . . .	25
Other poisons . . . . .	528
Total . . . . .	3,790

## MURDER.

	No. Both Sexes.
Arsenic . . . . .	2
Mercury . . . . .	3
Sulphuric acid . . . . .	1
Carbolic acid . . . . .	1
Chloroform . . . . .	1
Chloral-hydrate . . . . .	1
Opium . . . . .	6
Prussic acid and cyanides . . . . .	14
Strychnine and nux vomica . . . . .	8
"Vermin-killer" . . . . .	1
Kind not stated . . . . .	4
Total . . . . .	42

In addition to the formal papers in the Health Department, the Association is indebted to Dr. Edward M. Hartwell, secretary of the Statistics Department of Boston, for some interesting remarks on "The Relation of Death Rates to Growth Rates," of which only the briefest abstract can be presented. He said in substance: Nearly thirty years ago Dr. Henry P. Bowditch of Boston, in presenting the results of his determination of the height and weight of some 25,000 pupils in the public schools of Boston, called attention to the fact that the average height of girls of the age period 11-15 years exceeded that of boys of the same age,

and that the average weight of girls of the age period 12-15 years was also greater than that of boys of the same age. Since then numerous observers in this country and abroad have corroborated Dr. Bowditch's conclusions, though the years in which the growing girl is taller and heavier than the growing boy vary somewhat in different countries.

In 1894 I had occasion to analyze the death rates of males and females dying in Boston in the age period 0-21 years in the census years 1875, 1885, and 1890. The analysis showed (1) that during the period from ten to fifteen years,—i.e., when increase in height and weight is most rapid,—the death rates of Boston boys and girls attain their lowest point, and (2) that the lowest death rate is reached from one to two years earlier in the case of the girl.

The main purpose of this communication is to show that analysis of the death rates of Boston by sex and by individual years of age for the age period 0-21 years for the census years 1895 and 1900 yields similar results.

Thus it appears that the year of age in which the lowest death rate of girls fell was in the twelfth, in 1875 and 1885, and the thirteenth, in 1890, 1895, and 1900, while in the case of boys it fell in the thirteenth year in 1875, in the fourteenth in 1885, 1895, and 1900, and in the fifteenth year in 1890. In none of the census years noted did the minimum death rates of Boston boys and girls fall in the same year of age.

Dr. Hartwell used several diagrams and statistical tables in illustration of the difference between the two sexes in respect to mortality rates during the period of accelerated growth and development, and emphasized the significance of such differences in relation to school life and to certain school diseases, e.g., stuttering, and spinal curvature.

Incidentally, he pointed out that the general death rate of Boston had fallen from 26.50 per thousand of population in 1875 to 20.82 in 1900, while the death rate of children under five years had declined from 111.46 per thousand for boys to 71.67 in 1900, and for girls from 102.62 in 1875 to 59.13 in 1900. For boys under one year old the rate in 1900 was 216.09 against 286.90 in 1875; and for girls under one it was 169.86 in 1900 against 263.81 in 1875. Other facts were instanced to show that there had been a marked and gratifying improvement of the public health of the city in the period 1875-1900.

### III. DEPARTMENT OF JURISPRUDENCE.

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In opening the session of the Department of Jurisprudence Friday evening, May 15, Hon. Charles Bulkley Hubbell, the chairman of the department, said:—

For twenty-five years the interests of this department have been directed by a gentleman whose enthusiasm and devotion have been one of the main causes of the importance and interest that have attached to its deliberations. No meeting was considered a success without the commanding and gracious presence of Judge Wayland, whose successor I have the honor to be. He was known and beloved by the bar of the country from one end of it to the other. An invitation from him to address the Association was seldom declined, and the busiest and most distinguished jurists brought us the fruitage of their best thought when summoned to our presence. Those of us who for many years have been accustomed to attend these gatherings and take an interest in the welfare of the Association will ever be grateful to Judge Wayland for his long and useful service, and will unite in the earnest hope that he may soon be restored to vigorous health.

Never before in the history of this country have we been face to face with such momentous social and legal problems as at the present moment. Some of them have already been discussed here in your presence in a most illuminating and intelligent manner. Others will be presented to-night. Our President has stated that the Department of Social Economy is the most important one included in our programme, and in many respects it is; but I would remind you that sooner or later all the questions raised have to reckon with the final "Peace, be still," of the mistress who dwells in the temple of justice and determines the affairs of men according to the principles of eternal truth and right.

The solution of the now conflicting rights of labor and capital, the racial question in the South, the limitations and supervision of great aggregations of capital, the many prob-

lems arising in our new possessions across the seas,—all these must be considered and determined by the application of the principles of that science we call jurisprudence, which are finally applied by that great tribunal that has ever possessed and now possesses the unwavering confidence of our people, and is called the Supreme Court of the United States.



## 1. THE RIGHT OF PRIVACY AND ITS RELATION TO THE LAW OF LIBEL.

BY ELBRIDGE L. ADAMS, ESQ., OF ROCHESTER, N.Y.

In *Scribner's Magazine* for July, 1890, there was published a suggestive paper by the late Mr. E. L. Godkin, entitled "The Rights of a Citizen to his own Reputation." After showing that society owes most of its protection from disorder and most of its moral improvement to the desire which men have of the approbation of their fellow-men, and to a corresponding fear of social condemnation, he argued that it was to the interest of the State to safeguard in every possible way the good reputation of its citizens, and to throw about their personal affairs the hedge of secrecy and privacy. He confessed, however, that it was not easy to say in what way the privacy of the individual might be secured by law further than it is now secured to him by the law of slander and libel, and concluded that press laws, more than any others, have to be supported, not merely by the opinions, but by the manners of the community.

The difficulty, which seemed insurmountable to the journalist, presented itself with all the attractiveness of a problem to be resolved in the crucible of the common law to two lawyers of this city of Boston. In October of the same year there appeared in the *Harvard Law Review* an article by Messrs. Louis D. Brandeis and Samuel D. Warren, which, in originality of conception, in facility of reasoning, and in the results to which it has led is one of the most brilliant excursions in the field of theoretical jurisprudence which the recent literature of the law discloses.

Their argument, briefly summarized, was that political, social, and economic changes entail the recognition of new rights, and of new remedies to secure those rights, which the common law, in its eternal youth, expands to meet. Because of this growth, this continual adoption of new principles to meet new experience, the law never becomes entirely

consistent and stable. Its roots reach back into the past, and its new blooms are budding while yet the old wood is being sloughed off. As Mr. Justice Oliver Wendell Holmes has put it, in his fascinating study of the historical development of the common law:—

The life of the law has not been logic. It has been experience. The felt necessities of the times, the prevailing moral and political theories, the intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow-men, have had a good deal more to do than syllogism in determining the rules by which men should be governed.

This development of the law has been slow, and necessarily so, for it always takes time to supplant old ideas with new ones; but it has always been progressive. There was a time when the law afforded a remedy only for actual battery of a man's body. That was the time when the right to life and liberty meant simply the right to be free from actual physical harm. Afterward, when the intellectual and emotional nature began to receive recognition, and man was regarded as a psychological as well as a physical entity, the law took cognizance of the sensations, thoughts, and emotions. Out of the action of battery grew that of assault; and a threatened attempt to do injury, unaccompanied by physical violence to the body of another, was a cause for damages. So the law of nuisance was developed from the law of trespass, to protect a man against offensive odors, noises, dust, and smoke; and the law of slander and libel arose to redress injuries to a man's reputation in the community. In like manner the law relating to property grew from the simple protection of the lands and cattle and other tangible property of the individual, to the elaborate modern devices to secure to him the products of his mind as reproduced in literature and art, trade secrets, and good-will. For years there has been a feeling that the law ought to redress not only invasions of a man's property rights, but also his right to privacy, or his right to be let alone. The portrayal in the newspapers of all the details of one's private or domestic life, the taking and vending of instantaneous photographs, the caricaturing of public men in cartoons, the publicity given by ambitious and unprofessional medical

men to wonderful surgical operations, the use of a man's name for advertising purposes and of his body for anatomical purposes,—all these things are quite annoying to sensitive people, and deservedly call for censure.

The question is, How shall these infractions of decency and propriety be prevented by the law? The law of libel is not sufficient to accomplish that end, because it deals only with material wrongs,—damage to the reputation; while the invasion of the right of privacy is a spiritual wrong,—damage to one's own feelings. But, while it is true that our law recognizes no principle upon which compensation can be granted for mere injury to the feelings, it is argued that an injunctive remedy can be had upon the analogy of cases dealing with rights in intellectual and artistic property.

The common law [so the argument runs] secures to each individual the right to determine, ordinarily, to what extent his thoughts, sentiments, and emotions shall be communicated to others. Under our system of government he can never be compelled to express them, except upon the witness-stand; and, even if he has chosen to give them expression, the law generally recognizes his power to fix the limit of the publicity which shall be given them. The existence of this right does not depend upon the particular method of expression adopted. It is immaterial whether it be by word or by sign, in painting, by sculpture, or in music. Neither does the existence of the right depend upon the nature or value of the thought or emotion, nor upon the excellence of the means of expression. The same protection is accorded to a casual letter or an entry in a diary and to the most valuable poem or essay; to a botch or daub and to a masterpiece. It may exist independently of any corporeal being, as in words spoken, a song sung, a drama acted.

It is admitted that the basis of the right to prevent the publication of manuscript or works of art is found by the courts in the right which every man has to his own property, the conscious product of his labor; but the courts are criticised for basing their decisions upon property or contractual rights in cases where the value of the production is not in the right to take the profits arising from the publication, but in the peace of mind and relief afforded by the ability to prevent any publication at all.

A man records in a letter to his son, or in his diary, that he did not dine with his wife on a certain day. No one into whose hands those papers may fall could publish them to the world, even if possession of the documents had been obtained rightfully; and the prohibition would not be confined to the publication of a copy of the letter itself, or the diary entry. Restraint extends also to the publication of the contents. What is the thing which is protected? Surely not the intellectual act of recording the fact that the husband did not dine with his wife, but the fact itself.

Many English cases, especially that of *Prince Albert v. Strange*, in which the defendant was restrained from publishing some etchings which the Prince and Queen Victoria had made for their own pleasure, are analyzed and cited as authorities for the proposition that there has been judicial recognition of a legal right to privacy; and the authors of the article conclude that, notwithstanding the tendency of the courts to rest their decisions upon property rights, the protection afforded to thoughts, sentiments, and emotions, expressed through the medium of writing, printing, or of the arts, so far as it consists in preventing the publication, is like the right not to be assaulted or beaten, and that the principle involved is not the principle of private property, but that of an inviolate personality.

This theoretical exposition of the law was contested by a writer in the *North-western Law Review* (vol. iii. p. 1), who dealt with the subject from the practical standpoint. He maintained that the right of privacy does not exist as a legal right, and that the arguments in favor of its existence are based upon a mistaken understanding of the authorities cited in its support; that equity has no concern with the feelings of the individual or with considerations of moral fitness, except as any inconvenience or injury that a person may suffer is connected with the enjoyment or possession of property. The writer pleads for the application of new remedies to meet the exigencies of modern life upon the basis of settled principles of law, and not upon considerations of conscience, propriety, or moral fitness.

Once cast aside [he says] the fundamental principle of English law,—precedent,—and make the administration of jus-

tice dependent upon the conscience and sense of equity of the judge who hears the case, and there will be banished from our law that certainty and definiteness on which are built the property rights of the people.

The controversy thus commenced in legal periodicals soon passed into the forum of the courts. In 1892 some of the family of Mrs. Mary Hamilton Schuyler, who was conspicuous in her lifetime for her philanthropic work, attempted to prevent the exhibition, at the coming Columbian Exposition, of a statue of Mrs. Schuyler, intended to typify "Woman as a Philanthropist," alongside of a companion piece, a statue of Miss Susan B. Anthony, intended to represent "Woman as a Reformer." They asserted that the projected memorial was disagreeable and obnoxious to them, because it would have been so to Mrs. Schuyler, if living, and that it was annoying to have her memory associated with principles which Miss Anthony professed and which Mrs. Schuyler did not approve.

The action was avowedly suggested by the article in the *Harvard Law Review* already referred to; and the decision of the courts of original and intermediate jurisdiction, granting the relief asked for, was distinctly placed upon the theory advanced in that article. The action was, however, dismissed in the court of final resort upon the ground that the relations of Mrs. Schuyler did not represent any right of privacy which she possessed in her lifetime, and that, whatever her right had been in that respect, it died with her. The court was also inclined to the view that the grievance was too trivial to excite any real mental distress or injury; but it carefully avoided any definite decision of the question whether there was or was not such a legal right as the right of privacy.

The question next came up for adjudication in Michigan, and the Supreme Court of that State found no difficulty in deciding that a widow could not enjoin a manufacturer of cigars from using the name and portrait of her late husband to designate a brand of cigars. The court said in its opinion:—

Society may be depended upon to make proper allowances in such cases; and, although each individual member may, in his own case, suffer a feeling of humiliation when his own

name or that of some beloved or respected friend is thus used, he will, usually in the case of another, regard it as a trifle. So long as such use does not amount to a libel, we are of the opinion that the individual would himself be remediless, were he alive, and the same is true of his friends who survive him. . . . This law of privacy seems to have gained a foothold at one time in the history of our jurisprudence, not by that name, it is true, but in effect. It is evidenced by the old maxim, "The greater the truth, the greater the libel"; and the result has been the emphatic expression of public disapproval by the emancipation of the press and the establishment of freedom of speech, and the abolition, in most of the States, of the maxim quoted by constitutional provisions. The limitation upon the exercise of these rights is the law of slander and libel, whereby the publication of an untruth that can be shown to be injurious, not alone to the feelings, but to the reputation, is actionable. Should it be thought that it is a hard rule that is applied in this case, it is only necessary to call attention to the fact that a ready remedy is to be found in legislation.

The question was again presented in a case in the Federal Court, arising in the Massachusetts district, in which the widow of Mr. Corliss, the inventor, endeavored to restrain the publication of the biography and picture of her husband, upon the distinct ground that it was an invasion of her right of privacy. The court denied the relief sought, saying:—

Freedom of speech and of the press is secured by the Constitution of the United States and the constitutions of most of the States. This constitutional privilege implies a right freely to utter and publish whatever the citizen may please, and to be protected from any responsibility for so doing, except so far as such publication, by reason of its blasphemy, obscenity, or scandalous character, may be a public offence, or by its falsehood or malice may injuriously affect the standing, reputation, or pecuniary interests of individuals. In other words, under our laws one can speak and publish what he desires, provided he commit no offence against public morals or private reputation.

In England a case was recently brought by a physician to restrain the publication of an advertisement of a patent medicine, in which it was stated, with substantial truth, but without his authority, that the physician had been prescribing defendant's patent gout cure, and using it himself, with

good results. The English Court of Appeals unanimously decided that the physician suffered no legal wrong for which the courts could give him a remedy, so long as it did not appear that either his reputation or his property had been injured.

More recently the whole subject has come squarely before the New York Court of Appeals in the case of *Roberson v. The Rochester Folding Box Company and the Franklin Mills Company*. The facts in that case were these: A lithographic company had printed and a milling company had circulated, as an advertisement of its flour, some prints upon which appeared the profile likeness of a young woman, above which were the words "Flour of the Family," and below, the name and address of the milling company. A young woman, claiming to be the original of the portrait, brought suit against both the maker and user of the advertisement, claiming that she had been greatly humiliated by the scoffs and jeers of persons who had recognized her features in the picture, and that she had been made sick, and had been put to the expense of employing a physician, by reason of which she had suffered large pecuniary damage. She prayed to be compensated for the injury, and also asked for an injunction restraining the further circulation of the picture. Her complaint contained none of the averments of an action for libel,—namely, a malicious or false publication and defamation of character or reputation; nor did it allege that the picture had been obtained through a breach of contract. The relief sought was grounded solely upon the proposition that the circulation of the advertisement, without the complainant's consent, constituted an invasion of her right of privacy.

A demurrer was interposed to this complaint; but it was overruled by the lower courts, which, regarding the question as an open one in the State of New York, and not feeling bound by the decision of the Supreme Court of Michigan, held that there was a legal and actionable right of privacy which had been invaded. These decisions were, however, overruled by the Court of Appeals, which examined the whole question in the light of both principle and authority, and reached the conclusion, by a divided court, that the right of privacy does not exist in law. The court made the following observation:—

While most persons would much prefer to have a good likeness of themselves appear in a responsible periodical or leading newspaper rather than upon an advertising card or sheet, the doctrine which the courts are asked to create for this case would apply as well to the one publication as to the other; for the principle which a court of equity is asked to assert in support of a recovery in this action is that the right of privacy exists and is enforceable in equity, and that the publication of that which purports to be the portrait of another person, even if obtained upon the street by an impertinent individual with a camera, will be restrained in equity on the ground that an individual has a right to prevent his features from becoming known to those outside of his circle of friends and acquaintances. If such a principle be incorporated into the body of the law through the instrumentality of a court of equity, the attempt logically to apply the principle will necessarily result not only in a vast amount of litigation, but in litigation bordering upon the absurd; for the right of privacy, once established as a legal doctrine, cannot be confined to the restraint of the publication of a likeness, but must necessarily embrace as well the publication of a word-picture, a comment upon one's looks, conduct, domestic relations or habits. And, were the right of privacy once legally asserted, it would be necessarily held to include the same things if spoken instead of printed; for one as well as the other invades the right to be absolutely let alone. An insult would certainly be in violation of such a right, and with many persons would more seriously wound the feelings than would the publication of their pictures. And so we might add to the list of things that are spoken and done, day by day, which seriously offend the sensibilities of good people, to which the principle which the plaintiff seeks to have imbedded in the doctrine of the law would seem to apply.

This decision excited much discussion all over the world. It has been made the subject of comment in newspapers and periodicals, both at home and abroad, and societies of jurisprudence and law schools have debated it. Curiously enough, the newspaper press, apparently unmindful of its own delinquencies in respect to a decent regard for the private rights of individuals, has almost unanimously disapproved of the decision. One prominent New York journal went so far in its editorial condemnation of the ruling of the court that one of the judges, who voted with the majority of the court, felt called upon to defend the decision in an article contributed to a law review. He said:—



If the time should ever arrive when a judicial decision which rests so firmly upon sound principles and safe precedents can be regarded as the direful spring from which all the woes and evils described in the above article flow, our notions with respect to the proper duties and functions of the judge must be subjected to a radical change. It will then be his duty, instead of seeking to apply principles and precedents to ever-varying facts, to keep his ear to the ground, or watch the direction of the popular breeze. Fortunately, no such result need be anticipated. The learning and conservative tendencies of the bar and the good sense of the people will prevail over any temporary errors that the press may commit. . . . If it be true, as suggested in the article quoted, that the decision there referred to excited as much amazement among lawyers and jurists as among the promiscuous lay public, it is not only possible, but probable, that such a view was not founded upon a careful study of the question, but was the result of a mere superficial impression.

The press is a great educator of the people, and its discussion of questions of law decided by the courts is often productive of much good. It is perhaps better that judicial decisions should be publicly discussed, even though the comments are unfair or misleading, than that they should be entirely ignored. Any argument to show that the decision which is criticised in the articles quoted from is contrary to settled principles or a departure from precedent would be useful; but really all that has been said, or can be said, about it comes to this: The court should have thrown principle and precedent to the wind, and laid down an arbitrary rule applicable to that particular case, without regard to the effect of such rule upon other cases where perhaps the facts might be slightly different. Such decisions tend generally only to confuse the law. When a court embarks in the business of making new law to suit a particular case, it is difficult to stop, as one decision generally furnishes argument for another. It is easy enough to wander away from beaten paths that are safe, but it is not always easy to return. The argument *ad hominem* is often a taking one; but it more frequently misleads than clarifies the mind, and is generally made use of as a last resort. Hence it is suggested that, had the plaintiff in the case referred to been the daughter of the judge, the decision might have been the other way. That argument doubtless has some weight with the "promiscuous lay public," although it really imputes to the judges rather a low standard of integrity, since it contains the suggestion that their decisions may be controlled by their private interests or personal affections. There is, of course, no intention to convey any such idea. It is only an obvious defect

in methods of reasoning. What may be imagined that a judge would or would not do if his daughter's case could come before him, if even such a thing were possible, is not pertinent in any inquiry as to what the law actually is on any particular question, since law does not proceed from the private feelings of the judge.

There has been much misapprehension as to the precise question which the Court of Appeals decided in the Roberson case. It did not decide that one whose picture has been used by a photographer or other person, in breach of an implied contract, was without a remedy. It did not decide that, in every case where a picture is circulated against the will of the original, he is without a remedy. Indeed, it pointed out that there are provisions in the penal code of New York, and of many other States, punishing a malicious publication by picture, effigy, or sign, which exposes a person to public contempt, ridicule, or obloquy, as a libel, and said:—

There are many articles, especially of medicine, whose character is such that using the picture of a person, particularly that of a woman, in connection with the advertisement of those articles, might justly be found by a jury to cast ridicule or obloquy on the person whose picture is thus published. The manner or posture in which the person is portrayed might readily have a like effect. In such cases both a civil action and a criminal prosecution could be maintained.

What the court decided, and all that it decided, was that there is no such thing, within the history or principles of jurisprudence, as a right of privacy which will restrain an unauthorized publication which is merely offensive to the feelings, and which does not injure the property or the reputation.

The Court of Appeals might have decided otherwise; but any other decision would have opened up entirely new paths in the field of applied jurisprudence, which would have led to many and unforeseen complications and difficulties. For one thing, it would have been an innovation upon the well-settled principle of law which refuses to take cognizance of mere sentimental injuries. The maxim, which is the boast of the common law, that there is no wrong without a remedy, refers, of course, to legal wrongs, and not to those that offend

merely against good morals or good taste. All men are not possessed of the same delicacy of feeling or of the same consideration for the feelings of others. Some men are sensitive, and suffer keenly from the publicity and notoriety which others, more callous, will invite and welcome. Manifestly, the law cannot make a right of action depend upon the sensitiveness of the person injured. Mere injury to the feelings has never been recognized as affording ground for action, although, when an injury of which the law does take cognizance has been done, injury to the feelings may be taken into consideration on the question of damages. Our law, unlike the Roman law, does not afford a remedy even for mental suffering resulting from contumely and insult, nor for an intentional and unwarranted violation of the honor of another.

There are many wrongs that are most aggravating and reprehensible that the law does not pretend to redress. Some of the conditions on which the happiness of life and the well-being of society depend are not, and cannot, be the subject of positive law. Nor can they be enforced by any human tribunal. The law leaves the feelings to be soothed and vindicated by the tremendous force of sympathy.

Another difficulty would have been to determine the precise limits of privacy. The judges who have written on the subject have not been in agreement upon this point. Thus, in the Corliss case, Judge Colt said:—

I cannot assent to the proposition that Mr. Corliss was a private character. He held himself out to the public as an inventor, and his reputation became world-wide. He was a public man in the same sense that authors or artists are public men. It would be a remarkable exception to the liberty of the press if the lives of great inventors could not be given to the public without their consent while living, or the approval of their family when dead. A statesman, author, artist, or inventor, who asks for and desires public recognition, may be said to have surrendered this right to the public. When any one obtains a picture or photograph of such a person, and there is no breach of contract or violation of confidence in the method by which it was obtained, he has a right to reproduce it, whether in a newspaper, magazine, or book. It would be extending this right of protection too far to say that the general public can be prohib-

ited from knowing the personal appearance of great public characters.

Judge Van Brunt, however, in the Schuyler case, said:—

I cannot subscribe to the doctrine that, if Mrs. Schuyler had been a public character, this motion should have been denied. The claim that a person who voluntarily places himself before the public, either by accepting public office or becoming a candidate for office, or as an artist or literary man, thereby surrenders his personality while living, and his memory, when dead, to the public, to be used or abused as any one of that irresponsible body may see fit, cannot for a moment be entertained. It is undoubtedly true that by occupying a public position or by making an appeal to the public a person surrenders such part of his personality as pertains to or affects the position which he fills or seeks to occupy, but no farther. And, certainly, his memory, when dead, does not necessarily thereby become public property.

The distinction between public and private characters cannot possibly be made except by an arbitrary legislative enactment. It is to be feared that a judicial determination that all public characters are embraced within the classification of Judge Colt,—namely, “statesmen, authors, artists, and inventors,”—and that every one else is a private citizen of whom we must speak with bated breath, and from whom the newspapers must steer clear, would come with a shock to a great many people who have deluded themselves with the belief that they are public characters, entitled to all the honors and subject to all the inconveniences that attach to such celebrity.

The President is undoubtedly a public character, and his pictures, whether they are such as he would choose for publication or not, may be freely printed; but what of the President's family? Are his wife and his children, his man-servant and his maid-servant, his cattle, and the stranger that is within his gates, all liable to pay the penalty of his greatness?

But perhaps the most important corollary of a contrary decision in the Roberson case would have been the virtual extension of the law of libel. No valid distinction in principle would seem to exist between the unauthorized publication of a picture and any other publication whereby a person

is brought into undesired publicity. It is immaterial whether the printed characters used to describe him are the letters of the alphabet grouped into words or lines and dots grouped into a picture. A paragraph in a newspaper which should, in words, minutely and vividly describe the personal appearance of a woman in such a way that all her friends would recognize the description, might be quite as objectionable to her, and quite as serious an invasion of her right of privacy, as a publication of her photograph. The newspapers, concededly, have the right to print information about people, so long as it is not defamatory, without any legal liability. Some merely curious incident in a man's life may be seized upon by a reporter with the result that for the time being he is the most conspicuous person in the country. Yet, according to our present notions of the law of libel, no cause of action would accrue to him thereby, unless his character has been defamed. It makes no difference how much he may dislike the publicity, or how greatly he may be pained by it, or even how much he may be financially damaged by it. The fact of publicity alone will give him no right of action. Freedom of speech and of the press are secured by the Constitution. This constitutional privilege implies a right to speak and publish what one chooses about his neighbor, provided he commit no offence against public morals or private reputation.

The New York court of last resort, like the Federal Court and the courts of Michigan and of England, was unwilling to take upon itself the responsibility of extending the law of libel beyond the well-fixed limitations which several centuries of judicial pronouncement have determined. It turned the whole matter over to the legislature, and there it must finally be adjusted. The practical question, therefore, seems to be, How far may the legislature, within the limitations of the Constitution, restrain the growing license of the press?

It will probably not be seriously questioned that the American newspaper press, with a few honorable exceptions, has far overstepped the bounds of decency and propriety in its portrayal by word and by picture of the private life of individuals. It is one of the things which foreigners most quickly remark and condemn. Doubtless it is one of the products of

democracy. It is not a blight of recent times. Benjamin Franklin inveighed against it in 1789. He called the press "The Supreme Court of Judicature of Pennsylvania," and said of its power:—

It may receive and promulgate accusations of all kinds against all persons and characters among the citizens of the State, and even against all inferior courts, and may judge, sentence, and condemn to infamy not only private individuals, but public bodies, with or without inquiry or hearing at the court's discretion. This court is established in favor of about one citizen in five hundred, who by education or practice in scribbling has acquired a tolerable style as to grammar and construction. This five-hundredth part of the citizens has the privilege of accusing and abusing the other four hundred and ninety-nine parts at their own pleasure, or they may hire out their pens and press to others for that purpose.

If the "Father of American Printing" could see the Sunday edition of some of our metropolitan dailies, he might almost wish that he had not introduced the art of printing into our land.

Is there anything which shakes one's faith in popular education so much as the fact that a market can be found for this dreadful stuff? When one realizes that several millions of copies of these lurid sheets find their way into the homes of as many Americans citizens, where they are read by perhaps five times as many readers on the one day in the week which is devoted to rest, one wonders what the effect will be upon American manhood. That such literature results in a lowering of social standards and of morality, that it belittles and perverts the understanding, vulgarizes the tastes, and dwarfs the thoughts and aspirations of the people, cannot be gainsaid.

Curiosity about our neighbors, the desire to know what they are doing and saying, is one of the commonest of human failings. There is a story of a traveller in a Western mining town, who pinned his shirt across the open window of his hotel to screen himself, while performing his toilet, from the loungers on the piazza. After a few minutes the improvised curtain was thrust roughly aside by a hand from the outside, and a voice was heard asking, "We want to know what there is so darned private going on in there?" The story readily

illustrates one of the commonest traits of gregarious mankind, though not, it must be admitted, one of its most admirable. The product of this curiosity is gossip, which, so long as it is amiable, is not more harmful than many another innocent employment of the idle. When, however, gossip ceases to be the idle prattle of an idle hour, and, raised to the dignity of print, becomes the daily food of the multitude, it may well be questioned if it does not result in a lowering of social standards and the destruction of all delicacy of feeling. It demoralizes the people as a whole. The effect of it upon the individual is also different. So long as he is talked about by his neighbors, he is usually spared the mortification of knowing it; but, when his foibles, his family secrets, the amount of his income, what he eats and drinks and how he passes his leisure hours, are printed in the newspapers and published broadcast through the community, he knows that his neighbors know, and, if he be a man of fine sensibilities, he feels a natural resentment. When the gossip about him descends to the talk of the kitchen, and his relations toward his wife, or some one else's wife, his mistakes, his infirmities, and the indiscretions of his youth, are paraded before a prurient public, his indignation rouses primitive instincts, and he sometimes horsewhips the editor, or, in less refined parts of the country, shoots him in his sanctum. If he be a law-abiding citizen, having his passions under control, he may consult his lawyer, from whom he will receive the cold satisfaction of knowing that the law does not redress such injuries.

Is it, then, possible, is it even advisable, that the legislature should attempt to regulate this sort of thing?

In France they have had for years a law which forbids and punishes the publication in a public journal, without consent, of any fact of private life. A man can prevent the mere mention of his name in any disagreeable connection, or have satisfaction if the publication has been made. But in France the law on this subject is supported by a sensitiveness to ridicule or insult which has never existed in an Anglo-Saxon country.

In the State of California, which is quite as progressive in the science of law-making as any State in the Union, there

was placed upon the statute books in 1899 an amendment of the code relating to criminal libel, which reads as follows:—

It shall be unlawful to publish in any newspaper, handbill, poster, book, or serial publication, or supplement thereto, the portrait of any living person, a resident of California, other than that of a person holding a public office in this State, without the written consent of such person first had and obtained; provided that it shall be lawful to publish the portrait of a person convicted of a crime. It shall likewise be unlawful to publish in any newspaper, handbill, poster, book, or serial publication, or supplement thereto, any caricature of any person residing in this State, which caricature will in any manner reflect upon the honor, integrity, manhood, virtue, reputation, or business or political motives of the person so caricatured to public hatred, ridicule, or contempt.

A violation of this section shall be a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and imprisonment.

All persons concerned in said publication, either as owner or manager, editor or publisher, or engraver, are each liable for said publication. Actions for the violation of this section shall be tried in the county where such newspaper, handbill, poster, book, or serial publication, or supplement, is printed, or has its publication office, or in the county where the person whose portrait or caricature is published resides at the time of the alleged publication.

The second section requires that every article, statement, or editorial contained in any newspaper or other printed publication, published in California, which tends to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue, or reputation, or to publish the natural or alleged defects of one who is alive, and thereby expose him or her to public contempt, hatred, or ridicule, must be supplemented by the true name of the writer of such article, statement, or editorial, signed or printed at the end thereof, subject to a penalty of one thousand dollars for each offence, to be recovered in a civil action.

A critical examination of this statute discloses several defects in it. In the first place, it is obvious that it will not and was not designed to afford protection against the publication of one's private and domestic affairs. It would not,



for instance, prevent a newspaper from printing all the prurient details of a family scandal or a divorce suit. It relates only to pictures, caricatures, and criminal libels. The exception of persons holding public office from the provisions relating to pictures should be extended to include candidates for public office; and there should obviously be a proviso that persons who have themselves voluntarily dedicated their features to the public by some act of publication are not within the protection of the act.

It is not plain that any good purpose can be accomplished by requiring the writer of a libellous article to append his name to it, since the proprietor of a newspaper is responsible for everything it contains. It is said that about the only paper in California which has respected the requirement is one which has very rarely, if ever, been guilty of publishing a libel. The law remains practically a dead letter.

In the State of New York a recent amendment of the penal code makes it a misdemeanor to publish any private letter, telegram, or papers found on the person or among the effects of one who has committed suicide, or who has been found dead, with certain exceptions in the interest of the detection of crime. I have not observed that the statute is respected by the newspapers, and I have heard of no prosecutions under it. It is another dead letter.

On the 7th of April last, in that State, there became a law, with the approval of the governor, "An Act to prevent the Unauthorized Use of the Name or Picture of any Person for the Purposes of Trade." It was obviously suggested by the decisions of the Court of Appeals in the Roberson case. It reads as follows:—

SECTION 1. A person, firm, or corporation that uses for advertising purposes, or for the purposes of trade, the name, portrait, or picture of any living person without the written consent of such person first obtained is guilty of a misdemeanor.

SECTION 2. Any person whose name, portrait, or picture is used within this State for advertising purposes, or for the purpose of trade, without his written consent first obtained, may maintain an equitable action in the Supreme Court of the State against the person, firm, or corporation so using his name, portrait, or picture, to prevent and restrain the use

thereof, and may also sue and recover damages for any injury sustained by reason of such use; and, if the defendant shall have knowingly used such person's name, portrait, or picture in such manner as is forbidden or declared unlawful by this act, the jury in its discretion may award exemplary damages.

This act, it is plain, applies only to advertisers. No good reason is apparent why there should be one law for the person advertising flour and another law for the person advertising a newspaper. It is surely quite as offensive to the individual to find his picture in a disreputable newspaper, in connection with some disagreeable incident, as to see it placarded on the bill-boards in connection with some article of commerce. This law goes but a short step in the direction of protecting the right of privacy. But there is one quite serious defect in the law as it stands. Any use, for advertising purposes, of a picture or portrait, although it may be perfectly innocent, and with no knowledge of the fact that it is the picture of any living person, will entitle the person who can prove to the satisfaction of a jury that it is his or her likeness to recover damages, and, if "knowingly used," to punitive or exemplary damages. If, therefore, an artist makes a sketch, which is purely a work of imagination, and the same is used to advertise a brand of soap, some woman (perhaps some half-dozen women in different parts of the State) who happens closely to resemble the picture may persuade a jury that she is the original and receive substantial damages. Such likenesses are not uncommon. In a recent case in New York one Mary Louise Clary-Squire sued the Press Publishing Company for libel, based upon the publication in defendant's newspaper, in connection with an account of the marriage of one Louise Cleary with Eugene Cowles, a picture said to be that of "Mrs. Louise Cleary Cowles," but which the plaintiff claimed to be her own likeness. It was a fact that a Miss Louise Cleary had married Eugene Cowles upon the day named. The court left it to the jury to say whether the picture that was published was in fact the picture of the plaintiff. Several of the plaintiff's photographs were introduced in evidence, and also one of Miss Cleary. The judge said, "So far as we can see from an inspection of the exhibits, the picture published was as good a representation of one as

of the other." The jury found that the picture published was not that of plaintiff; but they might have found, on the evidence, that it was, although such was not the fact, and the defendant might have been compelled to pay damages to the wrong woman.

An act which considerably extends the rules of libel at common law has been passed by the Pennsylvania legislature, and is now, I believe, before the governor of that State for his approval.

It is evident, therefore, that there is a growing demand on the part of society for some protection in law against the violation of the right of privacy. The idea is an attractive one to the social reformer; but to the law-maker, who seeks to embody the idea into a statute, the subject is surrounded with serious difficulties. On the one hand, he must see to it that such a statute is general, and is made to operate upon all, and to protect all alike. Advertisers, newspapers, and periodicals of all kinds must be brought within its purview. On the other hand, he must avoid conflict with the constitutional guaranty of the freedom of speech and of the press. He must define in some way who are private persons, and must make exceptions which will permit a free and untrammelled discussion of the fitness and capacity of candidates for public office and of those holding public office.

In the opinion of able judges and journalists, it is impossible to frame such a statute as will remedy the evil complained of. Judge O'Brien, of New York, says:—

It is quite certain that it would operate in so many directions and cover so many cases that the law-makers never thought or heard of that it would have to be repealed at the next session.

Judge Brown, of the Supreme Court, says:—

It is exceedingly doubtful if any legislation be practicable which shall tend to restrict the excessive license indulged in by newspapers. Of course, a censorship is not to be thought of in a free country. We can imagine a censorship which, without repressing the freest discussion of political and social questions, and the claims of candidates to the suffrages of the people, might repress much that is indecent, coarse, and libellous; but, in the practical administration of such a law,

the abuses would soon outnumber the advantages. The same remark might be made of any other legislation upon the subject. As already stated, the law of libel affords a nominal remedy; and, if its administration be ineffectual, the same difficulties would probably attend the enforcement of a more rigorous statute. Such a statute, too, could hardly fail to operate as an infringement upon the liberty of the press.

Mr. Godkin said:—

There is only one remedy for violations of the rights of privacy within the reach of the American public, and that is an imperfect one. It is to be found in attaching social discredit to invasions of it on the part of conductors of the press. At present this check can hardly be said to exist. It is to a large extent nullified by the fact that the offence is often pecuniarily profitable.

These are high authorities, and their opinion is entitled to much weight. It may not be impossible to frame a comprehensive, effective, and constitutional law of privacy; but it is certain that no such law has yet been suggested by the advocates of it.

## 2. REFORM IN PENAL LAW.

BY THE HON. CHARLTON T. LEWIS, OF NEW YORK.

[Abstract of address.]

The greatest good of the greatest number (that is, the highest welfare of society at large) is supposed to be the aim of legislation. Every political doctrine or measure of policy is advocated or opposed, as it is believed to conduce to this end.

But penal laws are an exception. In dealing with crime, the custom is to consider, not the effect of the law upon the community in general, but rather the supposed deserts of the offender. In our penal codes an effort is made to measure out punishments according to guilt. As far as legislation on this subject embodies any principle, it is that of retribution, of rendering to each man the fit recompense for his deed.

The two ends are incompatible. The aim to render retributive justice and the aim to protect the community by eliminating crime are entirely distinct. They would inspire very different systems of law and administration. The traditional system, founded on retribution, has had a full trial. How has it succeeded?

It has proved, on the whole, a failure. In the first place, it attempts the impossible. No such thing is within the province or the power of government as the measurement of guilt and the assignment of proportional penalties. The vanity of the attempt would be palpable and startling, but that custom has made it so familiar. It is only by making statute law a fetic, and blinding ourselves to the absurdity of its empty phrases, that we can read with respect its definitions of the acts and circumstances which constitute any crime, such as robbery, and its solemn enunciation of sundry years of imprisonment as a punishment due the robber. If the unreasonableness of such laws were not obvious on their face, it would be made impressive by comparing them together. Each penal code tries to discriminate between the demerits of different crimes, and the results are striking.

For example, in Delaware a counterfeiter may be imprisoned for at most three years, and in New York for life; burning a building not a dwelling calls for four years or less in prison in Kansas, but is punished with death in Delaware; forgery is four times as great a crime as larceny in Kansas, but larceny is four times as great a crime as forgery in Connecticut; the actual average sentence for perjury is ten times as long in Florida as in Maine; that for incest is fifteen times as long in Louisiana as in Pennsylvania; that for bigamy is thirteen times as long in Minnesota as in Montana; that for rape is seventeen times as long in New Mexico and twelve times as long in Texas as in Louisiana; that for robbery is twelve times as long in Alabama as in Delaware, and nineteen times as long in Arizona as in California.

Thus there is no relation whatever between the real guilt of crimes and the penalties awarded. In the nature of the case there can be none. Desert is personal, attached not to a single act, but to character and life. Moreover, the penalty itself cannot be measured by time. To one prisoner the humiliation and suffering of a day in prison is a keener affliction than the life term of another.

The fundamental vice of the system is the selection of the aim. The end in view is made punishment according to desert, and is impossible of attainment. The interest of society demands that the aim in penal law, as in all law, be made the good of the community. Its purpose should be to do away with crime.

Reform in penal law means the substitution of this principle for the traditional theory of retribution. Let every law and administrative agency be directed to the protection of society, the prevention of those invasions of rights and of morals which constitute criminality.

In this light the subject is now studied by scientific inquirers. But the study is recent and as yet incomplete. Certain conclusions are gradually emerging into acceptance, and obtaining the sanction of experience where they are tested. Nowhere has the conception of retribution been discarded from a system of penal law. But it has been qualified and largely reduced in scope in many States and nations, with results which justify great hopes for the future. The imme-

diate consequence is confusion in the logical form of our codes, which are left without a controlling principle. The transition to a rational system awaits only the education of the popular intelligence to the true interests of society.

Many jurisdictions are already awake to the necessity and value of proper agencies for preventing crime, for rescuing from a criminal career the young who are in danger of entering it. General education, many of our best public charities, and the vast extension of juvenile reformatories in recent years are evidences of progress in this respect. Preventive work against crime, as against disease, is always the most fruitful.

In dealing with actual offenders, less improvement has been made. We still rely on imprisonment as practically the only treatment applicable to them. Fixed terms of confinement are still awarded for named offences. But this anomaly in law and social practice cannot be permanent. With the welfare of society as the end in view and discarding the antiquated folly of retributive justice, no man should be imprisoned unless it is necessary for the protection of the community. But, if it is necessary, he must be confined while the necessity lasts.

This is the principle of the indeterminate sentence. It revolutionizes the practice of penal administration. It gives hope to the prisoner, a motive to form habits of industry and good conduct, by patient labor and submission to discipline to earn his release. The key to his prison is in his own pocket. The partial and imperfect trial which this principle has had in Massachusetts and New York during twenty years past has proved its value. The proportion of prisoners discharged, who thereafter live reputable lives, has been multiplied. The number who had entered the road to permanent and habitual criminality, and have been rescued from it, form a large proportion of all the offenders subjected to it.

In short, the reformatory discipline, with the sentence terminable only by good conduct and satisfactory promise of reform, as tried at Elmira and Concord, has proved the greatest and most beneficial revolution in the system of penal law ever devised.

But a still larger, more fundamental principle has been

introduced by Massachusetts in the probation law. The vast majority of those guilty of law-breaking, who by the traditional system are sent to jail, are not in reality proper subjects for imprisonment. There is no danger to society from their freedom. To set them free, under proper supervision, kindly guidance, and helpful advice, with the pressure of strong motive, is the work of the probation law. It is capable of indefinite extension in practice.

Let the community learn to accept its responsibility for the erring, and itself become the probation officer's support and aid, as fully as every civilized community is already the aid and support of its police in watching against public disorder, and prisons can be largely disused. The abuse of prisons and jails is a chief reproach of our civilization. The substitution for them of better agencies for the conciliation of such offenders as are not hopeless is the end to which probation laws must look, and which seems to be largely possible.

But the true criminal, the habitual or congenital enemy of society, must be disarmed; and the true use of prisons is to entomb this small class not for a year or a fixed term, then to be released to prey on mankind, but permanently, as long as the character is unchanged.

The supreme interest of society in penal law is in the logical and complete incorporation with our codes of the true principles of reform, rejecting all attempts at punishment, and directing all agencies and efforts to the elimination of crime.

The discussion which ensued was confined to the address of Mr. Lewis, and the participants referred more or less directly to points which had been raised by that speaker. The Rev. Edward Cummings quoted the familiar phrase from "The Mikado," "It is my purpose all sublime to make the punishment fit the crime," and said that it would be much better for the person to-day to make it read, "It is my purpose all divine to make the punishment fit the crime." He then spoke of the necessity for some kind of scheme for retributive justice. He read an abstract from a report on the penal aspects of drunkenness which said that probation may be said to embody the more recent advances in penologic thought and method. One cannot accept the compliments paid to Massachusetts without some qualifications.

We have undertaken important preventive work in the way of substituting training and education and schools for prisons and reformatories; and yet, with all the excellent results already attained, there is



before the State legislature to-day a bill, which has been before it repeatedly, to secure some adequate reasonable treatment for boys between the ages of fifteen and eighteen years. There is not in our civilized community to-day adequate educational or preventive opportunity for saving the souls and characters of the youth between those ages, and every judge in Massachusetts is embarrassed. He does not know what to do with those boys who are brought before him.

While what Dr. Lewis has said about the abolition of the jails does not apply to every jail in Massachusetts, while there are reformatories in Massachusetts which stand well abreast the best in the world, nevertheless it applies absolutely to many a jail and some so-called houses of correction, not very far from where we now stand; and it is literally true that so uncivilized is our method that we are still maintaining such schools for crime, making inevitable the gradual manufacture and graduation of the criminal.

The Rev. Charles G. Ames then spoke for five minutes, referring at first to the work of Dr. Alice Bennett, fifteen years ago, in the State hospital of Pennsylvania, where she introduced the system of education as a curative for insanity. "We must not chain the criminal to the dead body of his crime," she said. "Shut him up with his sin, and you confirm him in his evil tendencies, which are always ready to spring into activity in darkness and bad company. We must help him to forget that he is a criminal. We must not simply remove the convict from evil tendencies: we must bring him in contact with good influences. The possibility of reform is the highest faith of Christendom to-day. We have every reason to do our best toward helping the worst."

J. G. Thorp, president of the Massachusetts Prison Reform Association, confined his statements mostly to figures showing the number of arrests, etc., in the State during the year 1902. "There were arrested in Massachusetts during the past year 95,000 persons. The courts released 62,000 of these. They committed to the prisons 25,000, in round numbers, and released upon probation something like 7,000. Of the 25,000 committed, 15,000 were not committed because the court said that they ought to go to prison, but because they were unable to pay the fine which was levied upon them.

"We have the rather surprising record of committing to prison for the purpose of punishment something like 10,000, while we have released on probation about 7,000 during the past year. Of these 7,000, 82 per cent. lived up to the rules of their probation. The other 18 per cent. were re-arrested and committed to prison. The court had the same hold upon them as at first. This was the record last year, although the probation system we have in this State is not adequately used.

"There is no reason why 20,000 instead of 7,000 should not have been released on probation. The cost of the 7,000 who were released on probation, if they had been sentenced to jail, would have been nearly \$60,000. The cost of caring for them while on probation was but \$30,000. Our system of fines is atrocious. It gives imprisonment to the man who cannot pay his fine, while it allows the man who can pay it to go free. There

is also the greater injustice of getting the money to pay the fine, not out of the man, the guilty person, but out of the sister or mother who can ill afford it and who has had no connection with the crime. That system has been greatly modified by our probation law. The law in this State allows the court, when it finds that a man cannot pay the fine it imposes, to be put under the care of the probation officer until he can earn it, or can pay it in instalments, instead of going to prison and working it out there."

### 3. PUBLIC ACCOUNTABILITY OF PRIVATE CORPORATIONS: AN INTRODUCTORY CHAPTER.

BY HARRY A. GARFIELD, ESQ., OF CLEVELAND, OHIO.

[Read Friday evening, May 15.]

In the brief time allowed for the presentation of the subject allotted to me, I am impressed with the impossibility of fully elaborating a theory, even if that were possible at this time. I have therefore confined myself to an examination and review of the development of thought in England and the United States concerning private corporations and the influence of certain fundamental conceptions upon accountability proposed as a remedy for some of the existing evils of corporate activity.

One of the striking characteristics of the Anglo-Saxon is his passion for fair play. This instinctive sense may be traced in all the great movements which have marked the growth of popular government in England and America, from Magna Charta to the present day. Opposition to advantage secured by force, special privilege, or monopoly, appeals as naturally to men of Anglo-Saxon origin as cunning to the Oriental; and it is based upon the conception of man as an individual endowed by his Creator with powers differing in degree, but always, in the normal man, similar in kind to those possessed by other men. We accept as indisputable the right of every man to exercise his powers freely and to their fullest extent, limited only by the right of other men to exercise their powers with like freedom. Life, liberty, and the pursuit of happiness are conceived to be incident to the existence of man the individual, not men in the aggregate. From the beginning of commercial development we have opposed persistently and aggressively every attempt to intrench the few to the disadvantage of the many.

But self-preservation is equally instinctive. Indeed, it emphasizes individuality, and asserts the right of each member of society to freedom of action. Over-developed, it easily and naturally becomes predatory. Hence arises a conflict. The stronger thrust aside the weaker. Combinations of forces for

offensive and defensive purposes follow; and, without the restraining influence of respect for the rights of others, tyranny or anarchy would prevail. The conflict will always exist, manifesting itself in one form or another. In one age the conflict is by force of arms; in another, by the more peaceable but possibly equally destructive methods of commercial warfare or strife between interests and classes. To hope for a permanent adjustment of the differences producing the conflict is chimerical, although each generation may secure and, for a time at least, preserve a balance of advantages more or less just, the degree of justice depending upon the character of the men composing the various classes and representing the conflicting interests. In other words, no theory of government or economics will be finally acceptable to a people hating tyranny which fails to take into account the individual man, because the strength of the entire body of citizens depends primarily and always upon the virility and freedom of the individuals composing the whole. Consequently, it is of first importance that nothing be permitted long to exist which saps the manhood of a nation, and that those institutions which invigorate and inspire men to higher attainment be wisely fostered. How best to guard against the one and secure the other is the problem, and it has occupied the attention of men of affairs as well as students for many generations.

Public control or, to mark a distinction which I think should be observed, public accountability of private corporations, is at present one of the plans proposed. Its most strenuous advocates are to be found among the opponents of State socialism, the two standing together against combinations of capital amounting to monopoly, but divided in their conception of what constitutes a monopoly and of the proper relation of other combinations with the public. The advocate of public accountability, which is of Anglo-Saxon parentage, bases his argument upon freedom of the individual. State socialism, the natural successor of paternalism, is of European origin. It would sink the individual in the State, and soon deprive him, unintentionally perhaps, of the power of initiative. The municipalization of private utilities in England during the past quarter of a century was an importation from across the channel, the imported article being transformed to suit the English case.

In order to weigh the value of public accountability as a remedy against ruinous encroachment by corporate enterprise upon the field of private and personal endeavor, it is manifestly important to know something of previous efforts, and to understand, if possible, the reasons why they have failed in whole or in part.

The English trade guilds were formed as if in blind opposition to the theory of unlimited competition not then developed. Combination was resorted to through partnerships to effect results deemed impossible or less easily accomplished by the unaided exertion of the individual. The common law courts always recognized the necessity for this departure, and early developed the familiar rules governing the relations between partners and between partnerships and the public. And because, as the spirit of enterprise grew, some undertakings exceeded the scope of these simple combinations, the right of the crown to grant charters of incorporation to bodies of men was recognized. This prerogative, however, vested in the crown no power to attach liability to the individual members of the corporation; and its members were, therefore, originally under no liability for the debts of the corporation. The East India Company, incorporated by Queen Elizabeth in 1600, and the Bank of England, incorporated in 1674, are early instances in which the British crown exercised the power. These corporations were, by virtue of the crown's grant, given power to deal with their property, to bind themselves by contract, and to do all such acts as an ordinary person could do. Indeed, their corporate capacity was unrestricted. What must have been the popular impression concerning these legal persons, brought into existence by sovereign act, endowed with unrestricted powers and perpetual life? Clearly, that they were invincible opponents and competitors; that against them, existing in any considerable number and engaged in enterprises within the reach of natural born men, the latter stood no least chance of success. Undoubtedly, because of the anomalous character of these combinations, and appreciating the spirit of the people, the crown has always been reluctant to grant charters; and in all cases there has been present as a reason for their existence some direct advantage to the government, usually in the form of revenue returns to the public

treasury. But private interest outweighing public advantage, and the crown hesitating to grant, Parliament was appealed to; and, beginning with about the year 1759, special charters by act of Parliament made their appearance, reaching the stage of rapid development with the construction of railways in England. These corporations were not, like those created by the crown, endowed with unrestricted powers, the overbalancing private interest to be subserved undoubtedly accounting in part at least for the distinction made. They were limited by the terms of their charters, and the courts finally settled down upon the rule that a corporation, created by act of Parliament for a special purpose, could not devote any part of its funds to objects unauthorized by the terms of its incorporation, however desirable such application might be.\*

Here, then, we perceive an attempt to limit the power of the deathless competitors. But the attitude of the public mind is still better illustrated by the struggle for existence of the unincorporated company, the so-called joint-stock company.

The common law, certainly prior to 1719, recognized only two forms of combination; namely, partnerships and corporations, the latter created by grant of the crown or by special act of Parliament. But crown grants, for the reasons already stated, were difficult to obtain, and special grants of Parliament were expensive. Consequently, promoters of enterprises sought by contract to form associations which should have continuous existence and limited liability. An agreement was entered into by the participants providing for transmissible and transferable shares, management by a few, the use of a company name, and generally for most of the powers exercised by corporations. In many respects these unincorporated joint-stock companies resembled the syndicate of the present day, and, like the syndicate, arose out of the desire of capital to secure for itself advantages not easily obtained by resort to well-recognized forms of combination. The courts frowned upon them, holding that, so far at least as the public was concerned, the members were no more than partners, each being the agent of the others, and each liable to the fullest extent for the debts of the company.

\* Lord Cranford, in *Hawkes Eastern v. Counties R. Co.*, 5 H. L. C. 331.

The chief reason urged against joint-stock companies during the eighteenth century was that the contracts upon which they were based undertook to free the members of the company from liability for the company debts, and encouraged speculation. The public could not dismiss from mind the notion that merchants dealing with companies sold goods on the strength of the credit of the individual members, and to permit those members to limit their liability by disposing of part of their shares or to cancel it altogether by selling all their holdings in the debtor company was looked upon as a fraud on the creditor.

Whatever may be said of the fertility of the human intellect, it is undeniably true that among the people at large new conceptions of familiar things displace old ones with difficulty and slowly. The liability of every partner to pay the last penny of the partnership debt had laid strong hold on the popular mind. The strict enforcement of this liability was conceived to be a just requirement, beneficial to creditors and exacted in return for the advantage permitted to combinations of individuals acting without special permission of the crown or Parliament. Consequently, when in 1719 a clamor arose over the outrages perpetrated upon the public by the promotion of innumerable enterprises, many of them fraudulent and others wholly without merit, and all launched under the convenient form of unincorporated joint-stock companies, Parliament passed the famous "Bubble Act," laying severe penalties on all who presumed to act as bodies corporate, issuing transferable shares of stock, on the ground, as stated in the act, that companies so formed were dangerous and mischievous, and tended to the grievance of the subjects of the realm. It is possibly true, as pointed out by Mr. S. C. T. Dodd, that the "Bubble Act" was passed to protect the monopoly granted to the South Sea Company against competition by voluntary associations, and that the struggle against monopoly was a struggle for freedom of association of persons and capital against laws that impeded that freedom. But it is certainly true that up to that time the courts invariably based their oppositions to these voluntary associations on the ground that they attempted to shield their members from liability as partners rather than because of any well-defined conception

of the distinction between combinations advantageous to the commonwealth and monopolies. As late as 1808, eighty-seven years after the passage of the act, and long after the South Sea Company had ended its disastrous career, it was held\* that a company with transferable shares, based upon a prospectus which declared that no person could be held accountable beyond the amount of the shares for which he should subscribe, was illegal, on the ground that this was a mischievous delusion, calculated to ensnare an unwary public.

Gradually, however, and as the people became more familiar with this form of combination, the unincorporated joint-stock company came into favor; for it possessed merits undeniably superior, for large undertakings, to the unlimited partnership. British trade and commerce bounded forward under the expansive power of these voluntary associations. Tradesmen began to look to a new source of credit, to the merit of the enterprise, to the strength of the company, rather than to the financial strength of its members; and at last the unincorporated company, conducting a lawful business in a lawful manner, except in respect to the ever doubtful transferable share and limited liability feature, was accepted with toleration by the courts.† The obsolete "Bubble Act" was repealed in 1825. The long struggle against limited liability was over; and before the middle of the nineteenth century Parliament provided for the registration and regulation of the discredited unincorporated company, which was, as Palmer says in his Company Law, "the lineal ancestor of the ordinary company under the Act of 1862."

I have ventured to review at some length the evolution of the English company, because it seems to me that we are making difficulties of much the same thing which seemed to have been objectionable to the students of commercial enterprises during the last two centuries, but which in the light of later experience disappeared or were transformed into situations easily controlled by law. The continuous existence of the joint-stock company, the freedom of stockholders from liability for debts of the company by means of transferable shares, were assumed to be objectionable and against public

\* *Rex v. Dodd*, 9 East, 516.

† *Rex v. Webb*, 14 East, 406.



policy; and the remedy relied upon was to declare illegal all combinations except those existing by virtue of crown grants or special act of Parliament. Unfortunately for the advocate of legal restraint as sufficient remedy, this included not only joint-stock companies, but also labor unions, and all other forms of voluntary association. The truth is that the remedy was wrong. It was wrong in part because the assumption was not justified by the facts, and in part because restraining acts cannot permanently block the will of the majority. Not all voluntary associations were objectionable. The non-trading mutual associations organized for the protection of their members certainly were not, so long as they confined their activities to mutual protection; and the honestly promoted, well-managed, profit-sharing companies proved themselves advantageous to all classes.

Viewed from the standpoint of the present, it is easy to perceive that law levelled against the existence of voluntary associations was unjust, because it denied to men the right to combine for laudable purposes, and futile, because in the end men perceived that by means of these associations a larger sphere of action could be secured to the individual, both to those directly and indirectly concerned; and, this being comprehended, the law was forced to give way. But a new phase was developed when trading companies came into the field in considerable numbers. So large a proportion of trade and commerce was now conducted by companies, the smaller business enterprises only being carried on by partnerships, that those who formerly had fought together for existence now became competitors. The rules applicable to competition between individuals no longer fully met the case. The greatly enlarged resources of the company as compared with the financial strength of the individual made it possible, for example, greatly to prolong an unprofitable commercial war. But the economists, becoming enamoured of competition, substituted it for the restrictive law of the earlier date, and advocated complete reliance upon it as a protection to society as well as sufficient for the contending forces. As between individuals, free and unlimited competition was, on the whole, productive of advantage. All stood on an equal footing. A sentient, knowable personality, instinct with conscience, was always the

responsible competitor. The span of natural life, the ability to work, the amount of available capital possible to accumulate and coming under the control of a single man,—these, and many other factors which will readily occur to the mind, were reducible to averages from which the great majority of individuals, prior to the establishment of the joint-stock company principle, did not depart to any great extent. With corporations, however, the conditions are vastly different. Persons they are, in the eyes of the law, vitalized by the hand and brain of men, but intangible as the blue of the heavens. We may visit their offices, speak with their representatives, deal with their assets, but they, the corporations, are forever invisible, unknowable, insensate; and, because conscience is an attribute of the human being that cannot be transferred or loaned or made available to another, the corporations created and permitted to exist for the convenience of private enterprise, soulless in very fact, must by necessity be subject to other and different rules than those applicable to the individual. Consequently, granting the effectiveness of competition as a sufficient regulator of the affairs of individual traders or partnerships, it soon became apparent that in the conflict between corporations it was productive of wastefulness, and often proved the destruction of the very situation it would relieve.

But, if the laws of competition prove ineffectual against the encroachments of corporate enterprise on individual freedom, and if we are to accept as final the verdict against governmental interference by restrictive legislation, are we not fast approaching a condition to which the proposals of the socialist will apply? I think not. Sir John Barnard Byles, better known as the author of "A Treatise on Bills of Exchange," says, in a little book entitled "Sophisms of Free Trade":—

"But the practical man sees that the objections of the socialists to that wild and unregulated competition which the free-traders introduced are no objections at all to a competition duly regulated. Competition, like the great physical forces of nature, is, when left to itself, destructive and devastating; but, guided and restrained by human art, it is an instrument of human happiness as mighty, but as harmless and docile, as the steam-engine itself."

Competition, duly regulated! Is this not a way out of the dilemma? But how regulated? What shall the regulations contain? The public mind has gradually but surely worked around to the conception of the corporation as accountable to the power which gave it birth. Human beings, although free agents, and hence regarded as of right possessed of all liberties not expressly denied to them, for the protection of others, are, nevertheless, accountable to their Creator. The reasoning concerning the body corporate once recognized as a person, and possessing certain liberties conferred by its creator, the State, follows in the same line. So long as corporations were under suspicion and merely tolerated, the attempt to restrict them by ruinous and unjust provisions of law were favorably received by the majority of the people. But, corporate enterprise finding favor, restrictive legislation has in recent years been limited to those provisions only which are calculated to prevent the formation of the new combination, the trust, which now bears the brunt of the eternal conflict waged against the forces threatening destruction to individual freedom. And, as formerly the distinction between worthy and unworthy companies passed unnoticed, so now the distinction between the new form of combination, which does in fact menace our liberties, and the combination which furthers progress and opens wider the door of opportunity to the individual, is unobserved.

No clearer exposition has ever been made of the limits of the province of government than by John Stuart Mill. His luminous reasoning sheds a light by which many of the problems of to-day are as clearly revealed as those of his own time. He says:—

“We must set out by distinguishing between two kinds of intervention by the government, which, though they may relate to the same subject, differ widely in their nature and effects, and require for their justification motives of a very different degree of urgency. The intervention may extend to controlling the free agency of individuals. . . . This is the *authoritative* intervention of government. There is another kind of intervention which is not authoritative, when a government, instead of issuing a command and enforcing it by penalties, adopts the course so seldom resorted to by governments, and of which such important use might be made, that of giving advice and promulgating information.”

Further, and as the strongest reason against the extension of government agency, Mill says:—

“Even if government could comprehend within itself in each department all the most eminent intellectual capacity and active talent of the nation, it would not be the less desirable that the conduct of a large portion of the affairs of society should be left in the hands of the person immediately interested in them. The business life is an essential part of the practical education of a people. . . . A people among whom there is no habit of spontaneous action for a collective interest, who look habitually to their government to command or prompt them in all matters of joint concern, who expect to have everything done for them except what can be made of mere habit and routine, have their faculties only half developed. Their education is defective in one of its most important branches. . . . The only security against political slavery is the check maintained over governors by the diffusion of intelligence, activity, and public spirit among the governed.”

Here, then, is the argument against socialism as a weapon of offence against the trusts, and at the same time a statement of the character and degree of government intervention necessary to convert this most formidable of combinations yet attempted into an entirely advantageous instrumentality for the advancement of men. I do not mean to indicate that all combinations can be so converted; but at least we can pursue a course which will qualify us to sit in judgment upon those worthy of condemnation, and prepare the way for such degree and kind of government intervention as shall wisely regulate combinations of capital, while at the same time preserving individual freedom.

To hold private corporations strictly accountable to the public, through the agency of government, for the proper exercise of the powers granted to them, is predicated upon the right of government to know that its laws are being respected; and to insist upon a due and regular accounting of the trusts committed to the various corporations is the best and surest means of preventing the growth of monopolies, and of revealing to both the governors and the governed the faultiness of any part of the legal regulations in force.

The value of publicity, which, of course, is not the same thing as accountability, has been long appreciated in Eng-

land. The Companies Act of 1862 makes provision for the registration of all members of a corporation, their names, addresses, and number of shares held being always obtainable by the stockholders, and, on the payment of a small fee, by any other person, while a rigid audit of the accounts of the company is usually required. The publicity given to reports of the United States Steel Corporation has done much to popularize the idea in this country, and the law creating the Department of Commerce and Labor has provided machinery for developing a system applicable to all interstate and foreign trading companies.

Prior to the development of the trust idea the popular conception in the United States of a private corporation was that it was merely a convenient method available for the conduct of private business. The suggestion that the public had any rights in the premises other or different than those existing in the case of individuals shocked the business sense of privacy. The few requirements of the law as to annual reports seemed to exist without reason or justice. Gradually, however, the popular conception changed with changing conditions until now scarce any will be found to question the right of the public to a certain measure of control over public service corporations. It is well understood that there are always three parties in interest,—the owners, the creditors, and the public. But the public is also, though less directly, affected by the activities of purely private corporations; and no sufficient reason can be urged against holding every corporation, whether engaged in public or in private business, responsible for violations of its charter privileges, as well as for performance of its duties. How can this responsibility be enforced without full information concerning existing conditions? To grant the existence of responsibility imports accountability. To insist upon public control may be construed to mean control amounting to tyranny and confiscation, but accountability requires nothing beyond a full and fair statement of facts. That the facts may be damaging to the enterprise is not sufficient argument against accountability, because, if secrecy is necessary to protect an enterprise from fair competition, it by no means follows—indeed, it ought not to be permitted—that government be used as a shield.

The protection afforded to inventors depends upon a different principle, and therefore is properly excluded from the category of protected enterprises in the sense here intended.

As stated by Mr. Bird S. Coler, in his plan for the regulation of trusts:—

“Business that requires secrecy of management and manipulation of securities is not entitled to the protection of the State, and should be refused corporate powers.”

It is beyond the scope of this paper to discuss the principles involved in the merger case now pending. Indeed, the contention there presented is too fresh in the public mind to require exposition. But I would include this form of combination with the more direct form of one large corporation which has absorbed the constituent elements and destroyed their legal identity. Accountability of corporations for the administration of their affairs to the creating power should be incident to the existence of all corporations. Full knowledge of the financial condition, method of conducting business, and profits secured, is a necessary prerequisite to government intervention in any department of trade or commerce. Without it, it is impossible to decide whether any given combination is detrimental to public welfare. The right of individuals to full and free exercise of their powers, whether acting alone or in concert with others, as partners or by the more convenient form of incorporated companies, admits of only such degree of control by the State as shall secure to others a like privilege. Step beyond this limit, and we abandon free government and inaugurate a system of paternalism foreign to our people and destructive of individual freedom.

#### IV. DEPARTMENT OF EDUCATION AND ART.

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##### I. THE FINE ARTS AS AN ETHICAL FACTOR IN COMMUNITY LIFE.

BY HENRY TURNER BAILEY, DIRECTOR OF ART IN MASSACHUSETTS PUBLIC SCHOOLS.

[Read Saturday morning, May 16.]

To assume that there is any relation whatever between the fine arts and ethics, morality, or religion, has always appeared to some minds an absurdity. When Greek art was at its best, Greece was a nation of slaves sunk in gross Paganism; the marble magnificence of the Rome of Augustus covered a pit of iniquity; the time of the Renaissance in Italy was the time of the Borgias; Paris, the most beautiful city in the world, is the most corrupt, they say. The biography of artists tells the same tale. The brilliant poets, painters, sculptors, have often been unscrupulous, profligate, worthless as citizens.

But such an interpretation of history and biography seems to me superficial. A closer reading of the facts leads to the conclusion that all great art has been born of worship, and all the masterpieces of genius of love. The worship may have been misdirected, the object of love may have been unworthy, but worship and love have been and ever will be at the heart of all human achievement. If moral deformity has accompanied genius, we must accept the fact, remembering, however, that, when any one power is abnormally developed, the other powers suffer. A function favored attains great sway, while others through disuse become atrophied. Our aim in education is wholeness, completeness, symmetry of character. In the attainment of perfection we cannot neglect the fine arts if we would. Teachers know already certain highly significant facts bearing upon the relation of the arts to human conduct. Beautiful school buildings, beautiful school-rooms, and beautiful furniture have practically eliminated Vandalism in public schools. Teachers know that works of art influence conduct and transform the spirit of children.

The programme this morning deals with what Hegel calls "The Realm of the Beautiful." Music is beauty expressed through sound. The stage, at its best, deals with beauty as expressed through human action. The fine arts have to do with beauty as expressed through static forms and colors. The true topic of the morning is "Beauty as an Influence in Life."

The study of beauty as embodied in fine art begins in the kindergarten, is continued through all grades of schools by drawing, coloring, and making, and study of masterpieces, is pursued still further in high schools, day and evening art schools, and in the universities. Museums and public parks—pictures in three dimensions by landscape architects—contribute something, and the practice of photography as a pastime is not without its value as an introduction to the study of beauty. Illustrated books and magazines, exhibitions, world's fairs, are all stimuli to be reckoned with in any serious study of the scope of education in the fine arts. The immediate question is, What relation has all this exploration of fine art to ethics, the science of human duties?

The complex human relationships with which ethics have to do have been reduced to one by the philosophers, and presented to us by Emerson in his poem "Each and All." The one all-inclusive relationship is expressed by the phrase "Each for All and All for Each"; and the ideal which all of us who teach must hold ever before us, the ideal for us all as participants in the community life is, Each at his best, for the good of All.

The study and practice of fine art helps towards the realization of this ideal in three ways:—

1. *By Opening the Mind and Heart.*—Everywhere are people as blind as bats and as narrow as moles. The ascending of the morning means nothing to them but a call to the daily grind. They hear the noise of the birds, but no music: not one of the little songsters is known to them by name. They never lift their eyes to the sky except to know about taking an umbrella. The cloud chariots, the flocks of Apollo, the wings of the seraphim in the upper deeps, the visions of lands beyond the morning star, are nothing to them. The modest grasses decked in jewels they merely avoid as being wet. The



companies of gladsome flowers brightening the earth with color, filling the air with fragrance, wooing children to laughter and song, they see not and know not. The sweep of the open landscape, the reach of the sea, alive with quivering air, and pulsing breezes, and sailing cloud shadows; the cool glooms of the forest at noon, the deepening shades of the upland pastures at sunset, the coming forth of the stars from their secret chambers,—all these splendid shows are lost upon them. In the realm of the arts they are equally bovine. They cannot tell one tune from another. They do not know a Turner from a Teniers, or a Botticelli from a Burne-Jones. They pass and repass the venerable ornament exquisitely cut upon the porch of a Colonial house, and know nothing of its presence, much less of its eventful history. They sit on Sunday in a church where the sacred symbols first scratched with trembling hands on martyrs' graves blaze forth their messages from glowing windows, or whisper them from the font and table and altar, but, having eyes, they see not, and, having ears, they hear not. Nature is to them a dim blur of things: the great world of art is to them a nonentity. A Latin grammar, a Greek text, an algebra, a mill sheet, a financial report, or perchance a flock of hens, is the measure of their horizon, and the arc of their sky. To a man submerged in business, entombed in a shop, buried in a book, or lost in himself, the practice of the ethical virtues is impossible.

The study of beauty as it is now pursued in our schools opens the soul to nature and to art in all its forms, awakening that response, that appreciation, that sympathy with everything, with every kind of craft, with every workman, which is a characteristic of ethical holiness. An open soul is the prepared field for the growth of the ethical virtues.

2. *By Increasing Individual Efficiency.*—In our towns and cities are men and women so near zero in personal power that normal ethical relations between them and the rest of the community are practically impossible. To be self-respecting, to be independent, to enter heartily and harmoniously into the life of the community, a man must count as one. Anything which tends to raise the potential in individuals becomes an ethical factor. The study and practice of fine art tends to promote individual efficiency in two ways: directly, by fur-

nishing ideals, and giving skill of hand in realizing those ideals; and, indirectly, by revealing fascinating fields of research, endless vistas of ever-increasing pleasure, to those whose fate it may be to tend a machine or to perform the monotonous labor involved in any one of the ten thousand soul-deadening occupations of the modern industrial and commercial world. The fate of thousands upon thousands of toilers depends upon how they spend their few moments a day of leisure. If they spend them in vicious ways, degeneration is sure. If through the study of beauty they come to have an interest in any one of the modes of beauty (in drawing, painting, designing, coloring, in wood-working, metal-working, thread-working, in photography, picture study, any branch of historic art or modern craft), and if to this the spirit turns during the few moments of leisure, then growth, increasing power, appreciating values in living, are inevitable. This enriched personality becomes the efficient agent in all ethical virtues.

3. *By Developing Taste.*—The study of beauty, familiarity with beautiful things, knowledge of the principles of beauty, will develop taste in the individual. Good taste will make for itself a home where order and peace and loveliness reign, a home where strength for the game of life may be redoubled daily, a home from which, no matter how humble, the spirit of peace on earth and good will to men will irradiate forever. Good taste will be thoughtful of the neighbor, it will give us costumes and other equipage void of offence. It will reveal the limits of personal freedom and the bounds of social control. Good taste is the regulative principle in all ethical virtues.

As a means of opening the mind and heart, thus preparing the way for ethical righteousness, as a means of promoting individual worth, thus developing the units of the ethical community, as a means of perfecting taste, thus sensitizing the ethical conscience, the study and practice of the fine arts stands second only to religion in importance as an ethical factor in community life. Literature, music, and the drama come afterwards.

We may rest assured that in the long run the truth of Emerson's affirmation as to beauty will prove true.

"All that's good and great with thee  
Works in close conspiracy."

## 2. GOVERNMENT SHOULD NEITHER ENDOW NOR CENSOR AMUSEMENTS.

In the absence of Mr. Heinrich Conreid, director of the Metropolitan Opera House, New York, who was expected to read a paper on "The Stage," his place was filled by Hon. St. Clair McKelway, of the Brooklyn *Eagle*, who delivered the following address on the "Endowed Theatre":—

When Mr. Dutton asked me to take Mr. Conreid's place, the instinct of retort, which is the very mainspring of journalism, led me to think, "I can no more take his place on the subject of the theatre than he could take my place in a suit of clothes." I, however, did not say that to Mr. Dutton, for I thought it would shock him. I also thought that I would better reserve the remark for this platform, where he could share the shock with others. In that purpose policy and altruism met together, and surprise and unselfishness kissed one another.

Besides, the idea of taking his place here impliedly involved the duty or the attempt to express his ideas. I could not do that; for I did not surely know what his ideas were, and, if I did, the attempt to express them might result in a grotesque misfit. His ideas might get lost in the labyrinths of my vocabulary, or my language might suffer under the impact of his ideas. A poor thing, but my own, was Touchstone's plea in mitigation of damages when he put Audrey as an exhibit before the duke and others in the forest of Arden.

You must therefore content yourselves with my own views on the subject of the theatre, and I promise you shall have them—the very moment I find out what they are. Now it is not easy for one to find out exactly what one's real, own, and only ideas are in Boston just now, for Boston, which, some one said, "is not a city, but a state of mind," has lately become, not a fountain or factory of ideas, but an understudy of Emerson. I have learned more about Emerson since I came here than about Mr. Conreid. I shall not tell you what I think about Emerson, for that would be a work of supererogation. I need not ask you what you think about Emerson,

for you all tell me without asking. I am content to know two things: One is that Emerson is universally well thought of by Boston—a hundred years after he was born. The other is that at least one hundred years would be required for Boston to think well of me if I thought ill of Emerson. I shall not risk contemporary safety or challenge the mercy of posterity by any such course.

Talking about Emerson reminds me of Mr. Conreid,—because they are so different. Mr. Conreid, as I learn, favors an endowed theatre. Emerson, were he here to-day, would insist that we have already an endowed theatre, indeed several of them. If pushed to tell where they were, he would name the Capitol at Washington, and he could even point to the State House, with the golden dome, where the play of "What became of the Thousand Dollars?" is now undergoing a continuous performance. He would also be apt to regard our city halls as the homes of vaudeville, our mayors as managers of the show, and the poor people as the unconscious claque or critics, according as they belong to the ins or the outs.

And this brings me to say that, if we have a State-endowed theatre, it must be endowed either by the national government, the federal State, or by the separate Commonwealths of the Union. We may well inquire, "Has the federal government done its ordinary work so well that we are prepared to let it take on the theatre business in addition to what it already has on its hands?" or, "Do our State governments act so well their parts that we can safely let them prescribe the standard of histrionic art to us, and make us pay for the same out of our taxes?"

I take it we will have to wait awhile before we say "yes" to either question. I would not bring up subjects which divide our opinions into discussion here, but we are all agreed that our governments do not yet set the standards for us in the things which they are charged with doing by law. The standards of debate are not set by our Congress or legislatures. They are supplied by our cultivated citizens in voluntary associations. The standards of economics are not expressed in our legislation. Our legislation escapes being a calamity in proportion as outside bodies of experts and scholars can force on that legislation a dim realization of or a bald-headed con-

formity to correct economic standards. Standards of fitness and efficiency for public service are forced on government, not by love, but by fear of the friends of the merit system, who annually play a stiff game of moral bluff on the apprehension of political parties by threatening to vote them out of power if they dare to reinstate the spoils system. The pulpit, the independent press, and the mugwumps ethically bulldoze the politicians at every point at which rule is affected by a relation to moral interests. Till our official class do not have to be forced to recognize correct political and economic and service standards, forced to recognize them even partially and reluctantly by external pressure, we should hesitate to ask them to make themselves either the masters or the censors of our dramatic *pabulum*.

Besides, it is possible to devolve too much on government and to leave too little to private or local initiative. We have already made the precedent of sending labor unions to the White House, which was the logical consequence of letting Wall Street run to the Secretary of the Treasury every time it gets into a tight spot. The courts, with more firmness than kindness, are telling our railroads in the interstate commerce act that they shall not compete at all, and in the Northern Securities case that they must compete and must cease from a policy to supersede throat-cutting with concord. Our good friend, Mr. John Graham Brooks, has discovered that the labor unions intend to take entire charge of the business of the wage-earners and quite one-half charge of the business of wage-payers. We are living, we are moving, in a grand and awful time; and before long the walking delegate will be a jumping Jupiter, from whom the inexcusable capitalist will have to get annual permit to live, which must be periodically viséd by the Civic Federation, as the guardian of sanity, security, and sanctification to employers and as the temperer of the omnipotence of the confederated employees.

I am combating none of these things. I have obtained my permit to live. I am willing to have it countersigned by Mr. Straus and Senator Hanna, and to take my chances on it from Grover Cleveland or Theodore Roosevelt or Richard Olney or W. J. Bryan, or any other President of the uncertain future. But I am not in a hurry to farm out to government

the provision, or the supervision, or the super-provision of my play goings. The syndicate or the Independent Booking Company suffice for that now. They take my money, and I make my choice.

If we are to have an endowed theatre, let us have it endowed by private capital. When billionaires are getting to be as plenty as blackberries, some of them must have mysteriously got possession of some of my money. I have not formed any purpose of going on a strike for it, but any of these billionaires is at liberty to employ any portion of his fortune in endowing a theatre anywhere he pleases. And if, after having endowed it, he has the sense to employ Mr. Conreid to man it and to manage it, so much the better. I shall not try to obtain a stockholder's ticket, but will cheerfully pay my way in as a form of tribute due from me to represent my interest on my share of the billionaire's fortune. Too many men who are "worth millions" are not worth much of anything else. If they wish to make restitution to me and to others in the form of endowed theatres, all right. Only they must be sure to employ geniuses in its management, who, in turn, can employ artists, authors, wits, and men of sentiment, not affected by a relation to commercialism, for the sake of commercialism, in the interpretation or provision of entertainment for the endowed theatre.

About all that the endowed theatre can do for the theatrical profession is to insure that the ghost shall walk with exemplary regularity. That will deliver the manager from the fear of a deficit. It will save the actor from the need of counting the railroad ties, on his long walk from the rural scene of ruin back to the Rialto of opportunity or of possibility, in wait for the expectant angel. The millionaires can disgorge endowments for theatres and can deliver those who are benefited thereby from the pains of impecuniosity. The millionaires may also in that way create in human breasts a disposition to condone them, but they can do little more—on the theatrical line. Money cannot monitor or muzzle mirth. It cannot dominate or dictate sentiment. It cannot temper tragedy. It cannot capitalize comedy. It cannot placate the pit or gild with gold the grin of the gallery that won't come off, and that will insist, as it pleases, on changing the grin to guffaws or to groans, according to its mood.

For the present, my friends, let us remit endowed amusements to the managers and to the millionaires. The former, if they are shrewd, can convince the latter, if they are an easy mark, that in endowed theatres they can secrete—or flaunt—an unneeded surplus with safety and with a fair measure of popularity and of gratitude. But let us keep our governments out of more than the matter of tragedy and of comedy than that in which they are already engaged. Enough of their business is already a tragedy of honor. Too much of it is already a comedy of errors. Awhile ago some of it involved a failure in the play of "A New Way to pay Old Debts." The nation preferred the old way of paying them. There are bills on the boards which have yet to be played—or played out. "The Trusts," "The Comedy of Revision, with Revision left out," the melodrama of "Benevolent Assimilation," the tragedy of "Unionization of Every Other Man's Rights," the problem play of "The Hero or the Scab," are all entered for the ensuing season. They bid fair to last for several seasons. I hope they will be well played, and that each of us will bear well our several parts, but I do not believe that the government should be solicited to take a hand in them, because they enter into the question of what our government itself shall be, shall mean, and shall comprise; and we should reserve the determination of that for ourselves. The old republics that furnished free entertainments for their peoples placated and pampered them for a while, but the end of the effort or policy was not a success. It furnished an object-lesson which the greatest, but I hope not the last of the republics, should be swift neither to copy nor to challenge.

### 3. MUSIC AS AN ETHICAL FACTOR IN COMMUNITY LIFE.

BY FRANK DAMROSCH, OF NEW YORK CITY.

[The editor greatly regrets that only this brief abstract of an extremely suggestive address can be offered.]

Music, as an art, is not primarily devoted to the development of morality. Its mission is, first of all, to give expression to the beautiful, to thoughts of higher things, to spiritual ideals, to the things inexpressible in speech or form or color. Its laws are founded upon æsthetic laws; its medium of expression, be it voice or instrument, seeks to convey its message by virtue of beauty of tone and sincerity of utterance; and it has fulfilled its part, if it has aroused in the hearer an echo of the emotions which called it into being.

Looked upon only as an art, music need accomplish no more, but music, more than any other art, exerts a far broader influence upon human life outside of its purely æsthetic mission.

It will be generally admitted that all art has an ennobling influence. One cannot live with beautiful pictures, statuary, architecture, or other artistic manifestations without being refined and uplifted. But for the ordinary person it is not easy to read the higher messages which those works of art proclaim, because the form in which they are given in a certain degree hides the message.

A painting is a picture of some natural object of familiar things, and it is these which first attract the attention. Most people do not get beyond the power of appreciating the fidelity of reproduction on canvas of those things seen in daily life. To some the mere color effects are pleasing, and they see nothing beyond that which excites their visual perceptions. The real mood and meaning of the painting remains a sealed book to them. And thus it happens that, while everybody likes to look at pictures, only the few get any deeper impressions, while most people are satisfied with evanescent effects.



While, therefore, all the fine arts could and should have a strong influence upon man's spiritual development, the fact that their medium of expression is reproductive of natural objects which veil the higher thought for which they are the vehicle militates against their finding ready ingress into men's deeper currents of thought and feeling and makes them less general factors of ethical culture.

Music, on the other hand, possesses powers of reaching men's souls far more direct and lasting.

As music does not borrow its methods of expression from trees, flowers, hills, rivers, or any other object in nature, but uses its own voice in its own way, it is not necessary to first interpret the spiritual by the material, as in the case of painting or sculpture.

Noble music will kindle noble emotions in the hearer, whether he understands its meaning or not. It appeals directly to the soul, and sets vibrating as many responsive strings as each particular soul has strung. This varies of course according to the degree of culture and receptiveness of the individual; but, with each new appeal, music finds a harp with more strings ready to respond to its touch. And, as men gradually grow to understand and appreciate this tone language which comes from unknown realms, which speaks in words which have no finite meaning and yet express the infinite lore of human emotions and ideals, they are lifted to a higher spiritual plane, their standards of life, thought, and action are raised higher and higher, and their attitude toward life, its duties and aims, becomes nobler and truer.

I do not take the position that a criminal will turn into an honest man after hearing Beethoven's C minor Symphony. I think that the cases are rare in which music has accomplished a rapid moral improvement in any person, but I do believe that the frequent and intimate association with good music refines and ennobles men.

Anything which lifts men to a higher critical plane is of influence upon his life as a whole. While, therefore, music seeks primarily to satisfy its own objects as an art, in creating higher art standards, it also—secondarily—raises the moral standards. The process may briefly be described as follows: music through direct appeals to the emotions creates *right feeling*, this leads

to *right thinking*, and this in turn to *right living*. It is therefore an ethical factor of great importance, all the greater because, unlike the Church and State, its influence is not direct, obvious, and, to a certain extent, restraining, fettering, but indirect, scarcely felt, and therefore not resisted.

A concrete example of this fact on a small scale is the experience we have in our public schools. The most unruly class of boys, eager to break all rules simply because they are rules, and therefore restraints on liberty, will in an instant become white-winged angels of peace when called upon to sing a song. They feel, intuitively, that song is synonymous with order and decorum, their voices are tuned to as gentle sounds as they are capable of uttering, and, paraphrasing the old saying that children are good only when they are asleep, we may say that they are good while they sing.

Good music influences not only children, but all people for good. My experience with the People's Singing Classes has shown me that people crave beautiful music, and that they will embrace any opportunity and make great sacrifices to have it in their lives.

The chorus is the ideal prototype of a democracy. Its members unite for a common purpose, to give expression to a beautiful work of art. Each one subordinates himself for the good of the whole. Each performs his part without encroaching upon the work of his neighbor. Each gives his best, and obeys the directing power which guides the whole. The result is a benefaction to all who participate and to all who come within range of hearing, and the effect is a benediction.



# JOURNAL OF SOCIAL SCIENCE,

CONTAINING THE

PROCEEDINGS OF THE AMERICAN ASSOCIATION.

NUMBER XLII.

SEPTEMBER, 1904.

BOSTON PAPERS OF 1904.

PAPERS READ IN THE DEPARTMENTS OF JURISPRUDENCE,  
SOCIAL ECONOMY, HEALTH, AND EDUCATION AND ART.



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1904.



Sever Fund

EDITED BY  
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## INTRODUCTION.

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The papers included in this number of the *Journal of Social Science* comprise all of the Boston addresses of 1904.

It may be well in this place to remind essayists once more of the *invariable rule* of the Association, that all papers engaged for the General Meeting are so secured with the understanding that they may be published in the *Journal* if deemed advisable. The members of the Council, however, are not pledged in advance to the publication of any particular paper. If writers choose to publish elsewhere, it must be with the stipulation that their papers may also be printed in the *Journal*, at the option of the Council as to date of publication. Heads of Departments are not solicitous to secure essays which, in general form and substance, have been read elsewhere before presentation at the Association Meeting.

A list of all addresses and papers will be found in the Table of Contents, and volumes published by the Association may be ordered of the Boston Book Company or of Damrell and Upham, Old Corner Bookstore, Boston, Mass., the selling agents of the Association.



## MEMBERS OF THE ASSOCIATION.

---

All officers are *ex-officio* members of the Association, but persons serving on the Department Committees may or may not be members of the Association.

In the list herewith submitted the annual and life members are given alphabetically, and the honorary and corresponding members according to nationality. The only distinction between honorary and corresponding members is that the former reside in the United States, and the latter in foreign countries. *It was voted at a meeting of the General Council that the "Journal" of the Association shall not be sent to any member who has not paid his dues for the year in which the convention is held which is reported in the "Journal."* *It was subsequently voted at a meeting held at Woodmont, Conn., July 6, 1898, that the General Secretary be permitted to use his discretion in carrying into effect this resolution.*

## BUSINESS OF 1904.

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The American Social Science Association held its Forty-second Annual Meeting at Boston, Mass., beginning Wenesday evening, May 11, and closing with the session of Saturday morning, May 14. The proceedings of the convention were carried on in Huntington Hall, which was kindly placed at the disposal of the Association by the Faculty of the Massachusetts Institute of Technology.

No formal business was transacted at this meeting of the Association. It was deemed expedient to defer the consideration of the routine affairs of the Association until the meeting of the General Council early in the fall.



CONSTITUTION, BY-LAWS,  
LIST OF OFFICERS, MEMBERS, ETC.,  
OF THE  
American Social Science Association  
SEPTEMBER, 1904.



## CONSTITUTION.

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I. This society shall be called the AMERICAN SOCIAL SCIENCE ASSOCIATION.

II. Its objects shall be classified in five departments: the first, of Education and Art; the second, of Health; the third, of Trade and Finance; the fourth, of Social Economy; the fifth, of Jurisprudence.

III. It shall be administered by a President, as many Vice-Presidents as may be chosen, a Treasurer, a Secretary, and a Council, charged with general supervision; five Department Committees, established by the Council, charged with the supervision of their respective departments; and such Local Committees as may be established by the Council at different points, to serve as branch associations. *The Council shall consist of President, Treasurer, Secretary, First and Second Vice-Presidents, the Chairman and Secretary of each Department, and ten Directors, with power to fill vacancies and to make their own By-laws.* The President, Vice-Presidents, Treasurer, Chairman, and Secretaries of Departments, and Directors shall be chosen annually by members of the Association, and shall hold office till their successors are chosen. The President, or in his absence a Director, shall be chairman of the Council. The Chairmen of the Local Committees shall be chosen at the pleasure of their respective committees. Whenever a Branch Association shall be organized and recognized as such by the Council, its President shall be *ex officio* one of the Vice-Presidents of the American Association, and, together with the Secretary and Treasurer, shall be entitled to all the privileges of membership in that Association. And, whenever a Local Department shall be organized and recognized as such by the Council, its Chairman shall become *ex officio* a member of the parent Association. The Chairman and Secretary of each Department, with the consent of the President of the Association, may appoint such special Department Committees as they may think best. The General Secretary shall be elected for three years, unless he resigns, or is removed by a two-thirds vote of the members present and voting in a regular meeting of the Council; and out of his compensation he may pay the salary of an Assistant Secretary, who may also be Secretary of one Department.

IV. Elections to membership shall be made by Standing Committee appointed by the Council in such manner as Council may provide. Any person so elected, and on payment of annual membership fee of five dollars, may continue a member by paying annually such further sum as may be fixed at the Annual Meeting of the Association, not exceeding ten dollars. On payment of one hundred dollars any person may become a life member, exempt from assessments. Honorary and corresponding members may be elected and exempted from the payment of assessments.

V. The Council shall have sole power to call and conduct General Meetings, and to publish the Transactions and other documents of the Association. The Department Committee shall have power to call and conduct Department Meetings.

● VI. No amendment of this Constitution shall be made, except at an annual meeting, with public notice of the proposed amendment.

## BY-LAWS OF THE ASSOCIATION.

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[NOTE.— At a meeting of the Council of the Association, held May 9, 1900, at Washington, a committee of three was appointed to revise Constitution and formulate By-laws to be considered and adopted by the Council at the earliest opportunity. That committee consisted of the Hon. S. E. Baldwin, the Hon. Francis Wayland, and the General Secretary.

At a subsequent meeting of the Council of the Association, held in New Haven, Conn., Oct. 12, 1900, this committee reported the following By-laws, which were *unanimously* adopted by the Council. Since the Constitution confers upon the Council power to enact its own By-laws, no further action by the Association is necessary.]

### ARTICLE I.

#### ORDER OF BUSINESS.

The following order of business shall be observed at all meetings of the General Council of the Association :—

- |                                  |                           |
|----------------------------------|---------------------------|
| (a) Reading of minutes.          | (d) Report of committees. |
| (b) Report of Treasurer.         | (e) Unfinished business.  |
| (c) Report of General Secretary. | (f) New business.         |

### ARTICLE II.

#### QUORUM.

The quorum of the Council at all regular and special meetings shall consist of five members, of whom three shall be of the *ex-officio* members of the Council.

### ARTICLE III.

#### VACANCIES.

SECTION 1. A committee shall be appointed on the first day of the general session of the Association to nominate officers, and such committee shall report upon the morning of the last day of the general session.

SECT. 2. The President may fill any vacancy occurring during the year in any office.

### ARTICLE IV.

#### AMENDMENTS.

The By-laws of the Association may be altered, amended, or repealed by the Council at any meeting by a two-thirds vote of the members present.

## ARTICLE V.

## TREASURER.

SECTION 1. It shall be the duty of the Treasurer to forward bills for annual dues on the first day of January of each successive year, and to meet all bills for printing, publishing, salaries, etc., on presentation of vouchers approved by President or First Vice-President, and the General Secretary.

SECT. 2. No funds shall be set apart for permanent investment without vote of Council; and all funds so set apart may be invested by the Treasurer at his discretion.

SECT. 3. The President or First Vice-President may draw on the Treasurer in favor of the General Secretary at any time for such sums, not exceeding one hundred dollars at any one time, as the President or First Vice-President may deem necessary to meet any proper expenses incident to the management of the Association or the proceedings of the Committee on Elections to Membership.

## ARTICLE VI.

## PRINTING.

SECTION 1. The selection of papers for publication in the *Journal* shall be left with the President and General Secretary, the latter serving also as editor of the *Journal*, and with the Heads of Departments. The Chairman of each Department will indicate to the General Secretary what papers, in his judgment, are available for publication in the report of proceedings.

SECT. 2. It shall be the duty of the General Secretary to print and distribute such information concerning the objects and purposes of the Association as may be useful in securing new members.

SECT. 3. It shall be the duty of the General Secretary to publish and distribute a cloth-bound copy of the annual *Journal* of the Association to each member in accordance with provisions under article referring to *Memberships*. Each essayist will be entitled to twenty-five reprints of his paper at the expense of the Association, on condition that his application is placed on file prior to the printing of his paper.

SECT. 4. If, in the judgment of the Treasurer and General Secretary, the funds of the Association will not justify publication in cloth, the current edition of the *Journal* shall appear in paper. The uniform date of publication shall be within six months of the Annual Meeting of the Association. Distribution of the *Journal* shall be effected as soon thereafter as possible.

## ARTICLE VII.

## MEMBERSHIPS.

SECTION 1. Elections to membership shall be made in accordance with provisions contained in Article IV. of the Constitution.

SECT. 2. After initial payment of assessment fee, all members in arrearages for the next following fiscal year of the Association shall not be entitled to the *Journal*. Failure to remit annual dues for two consecutive years shall result



in loss of membership in the Association. The General Secretary, however, may exercise his discretion as to the application of this rule in given cases.

#### ARTICLE VIII.

##### SALARIES.

The General Secretary shall be paid the amount of his salary in quarterly instalments upon the first days of October, January, April, and July, respectively; and he shall draw upon the Treasurer at his discretion such sums as may be allotted by vote of Council for clerical assistance.

# OFFICERS OF THE ASSOCIATION.

1904-1905.

*President*, JOHN GRAHAM BROOKS, Cambridge, Mass.

*Honorary President*, FRANK B. SANBORN, Concord, Mass.

*First Vice-President*, HON. OSCAR S. STRAUS, LL.D., New York City.

*Second Vice-President*, HON. FREDERICK J. KINGSBURY, Waterbury, Conn.

## DIRECTORS.

President CHARLES W. ELIOT, LL.D., Cambridge, Mass.

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Prest. DANIEL C. GILMAN, LL.D., Baltimore, Md.

HON. WILLIAM T. HARRIS, LL.D., Washington, D.C.

HON. FRANK B. SANBORN, Concord, Mass.

HON. CARROLL D. WRIGHT, LL.D., Washington, D.C.

Prest. J. B. ANGELL, LL.D., Ann Arbor, Mich.

HON. A. D. WHITE, LL.D., Berlin, Germany.

HON. JOHN EATON, Washington, D.C.

Mr. GEORGE WESTINGHOUSE, Washington, D.C.

HON. JOHN W. FOSTER, LL.D., Washington, D.C.

Mrs. CAROLINE H. DALL, Washington, D.C.

GRACE PECKHAM MURRAY, M.D., New York.

H. HOLBROOK CURTIS, M.D., New York.

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Mrs. VIRGINIA B. MCKELWAY, Brooklyn, N.Y.

HON. C. A. WOODS, Marion, S.C.

Rev. JOSEPH ANDERSON, D.D., Waterbury, Conn.

*General Secretary*, FREDERICK STANLEY ROOT, M.A., 391 Orange St., New Haven, Conn.

*Treasurer*, W. C. LeGENDRE, 59 Wall St., New York.

## Department Officers.

I. *Education and Art*.—Mr. S. T. DUTTON, New York City, *Chairman*; Mr. JAMES P. MUNROE, Boston, Mass., *Secretary*.

II. *Health*.—SAMUEL H. DURGIN, M.D., Boston, Mass., *Chairman*; Dr. HIBBERT W. HILL, Boston, Mass., *Secretary*.

III. *Social Economy*.—JOHN GRAHAM BROOKS, Cambridge, Mass., *Chairman*; HORACE G. WADLIN, Boston, Mass., *Secretary*.

IV. *Jurisprudence*.—HON. CHARLES BULKLEY HUBBELL, New York City, *Chairman*; Prof. ISAAC FRANKLIN RUSSELL, New York City, *Secretary*.

## LIFE MEMBERS.

---

Extract from Constitution: "On payment of one hundred dollars any person may become a Life Member, exempt from assessments."

Angell, Mr. George T., 19 Milk St., Boston, Mass.	Letchworth, Mr. W. P., Portageville, N.Y.
Baldwin, Hon. S. E., LL.D., New Haven, Conn.	Libbey, Mr. Jonas M., New York City.
Barnard, Mr. James M., 140 Beacon St., Boston, Mass.	Sanborn, Hon. Frank B., Concord, Mass.
Barnard, Mrs. James M., 140 Beacon St., Boston, Mass.	Sanborn, Mrs. Louisa L., Concord, Mass.
Blatchford, Mr. J. S., Boston, Mass.	Smith, Prof. Goldwin, LL.D., Toronto, Canada.
Bradford, Mr. Gamaliel, 502 Beacon St., Boston, Mass.	Stokes, Mr. Anson Phelps, 45 Cedar St., New York City.
*Cole, Mr. W. A., New York City.	Stokes, Mr. I. N. Phelps, 47 Cedar St., New York City.
*Dike, Mr. Henry M., New York City.	Stokes, Mr. Thomas, 47 Cedar St., New York City.
Dodge, Mr. Charles C., 33 Broadway, New York City.	Straus, Hon. Oscar S., 42 Warren St., New York City.
Dodge, William E., Jr., 99 John St., New York City.	Villard, Mrs. Henry, 145 W. 38th St., New York City.
Eliot, Mrs. Samuel, Boston, Mass.	Ward, Mr. J. Q. A., 119 W. 52d St., New York City.
Endicott, William, Jr., Boston, Mass.	Ware, Mr. William R., 130 E. 27th St., New York City.
*Farwell, Mrs. A. G., Boston, Mass.	White, Hon. Andrew Dickson, LL.D., Berlin, Germany.
Hermann, Mrs. H., 59 W. 56th St., New York City.	Wolcott, Miss Ella L., Elmira, N.Y.
Hoyt, Hon. J. W., The "Victoria," Washington, D.C.	Young, Mr. J. Edward, 130 William St., New York City.
James, Hon. D. Willis, 45 Wall St., New York City.	
Kingsbury, Hon. Frederick J., Waterbury, Conn.	
*Lawson, Rev. Albert G., Camden, N.J.	

[Names marked with (\*) cannot be found by post-office officials.]

## HONORARY AND CORRESPONDING MEMBERS.

---

### *In America.*

Moncure D. Conway, Esq., 22 E. 10th St., New York City.  
Prof. J. Irving Manatt, 15 Keene St., Providence, R.I.  
Major-Gen. O. O. Howard, Burlington, Vt.  
Edmund A. Meredith, Esq., care The Toronto Income Trust Co., Yonge St., Toronto, Can.  
Hon. Domingo F. Sarmiento, Buenos Ayres.

### *In Great Britain and Ireland.*

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Lord Radstock, London.  
Henry Dunning McLeod, Esq., Oxford and Cambridge Club, London.  
Alfred Field, Esq., Birmingham.  
Thomas H. Barker, Esq., Manchester.  
Henry W. Ackland, M.D., F.R.S., Oxford.  
Miss Louisa Innes Lundsden, Glenbogie, Rhynie, Scotland.  
Miss J. Frances Dove, Wycombe Abbey, Bucks, England.  
Lord Hobhouse, 15 Bruton Street, London.

Prof. James Bryce, M.P., London.  
Geoffrey Drage, Esq., London.

### *In France.*

M. August Laugel, 12 Rue de la d'Anjou, Paris.  
M. Émile Cacheux, 25 Quai St., Michel, Paris.  
\*M. Émile Trelat, Paris.  
M. F. Buisson, Bd. 163 Montparnasse, Paris.  
M. Émil Levasseur, 24 Rue Monsieur le Prince, Paris.  
M. Arthur Raffalovich, 19 Avenue Hoche, Paris.  
M. Pierre Claudio Jannet, 22 Rue Oudinot, Paris.

### *In Italy.*

Signor Martino Beltrani-Scalia, Rome.  
Prof. C. F. Gabba, Pisa.  
\*Prof. Alberto de Errea, Cavaliere della Corna d' Italia, Venice.

### *In Belgium.*

\*M. P. Buls, Brussels.  
M. Van de Rest, Brussels.

[The names on this list marked with a (\*) are those of persons who cannot be found by post-office officials.]

## LIST OF ANNUAL MEMBERS, 1904.

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[NOTE.— With reference to this enrollment some explanations are essential, and they are as follows:—

The "National Institute of Arts and Letters," organized under the auspices of the American Social Science Association, but now an independent body, still retains a certain connection with the Association in the form of Associate Memberships. The following clauses from vote passed at the Saratoga meeting of the Association define the existing status:—

*Voted*, That the members of the Institute be *ipso facto* associate members of the Association in return for the courtesy of the Institute in making members of the Association associate members of the Institute.

In the list subjoined, such associate members are marked with a *star*. In the matter of academic titles, such only are given as are known. Members are earnestly solicited to communicate with the editor at once respecting academic titles, and also to correct any errors which may be found upon the roll. All resignations should also be promptly reported to the General Secretary, 291 Orange St., New Haven, Conn.]

- |  |   |
|--|---|
| <p>*Abbey, Edwin A., Fairford, England.</p> <p>Abrahams, A., 800 St. Marks Ave., Brooklyn.</p> <p>*Adams, Henry, 1603 H St., N.W., Washington, D.C.</p> <p>*Adams, Herbert, LL.D., Johns Hopkins University, Baltimore, Md.</p> <p>Adams, Oscar Fay, 41 Marlboro St., Boston.</p> <p>Addam, Miss Jane, Hull House, Chicago.</p> <p>Ade, George, the <i>Record</i>, Chicago.</p> <p>Agar, John E., 31 Nassau St., New York.</p> <p>Aiken, W. M., 33 Union Sq., W., New York City.</p> <p>*Alden, Henry M., care of Harper &amp; Brothers, New York.</p> <p>Aldrich, Charles F., Home Insurance Building, Chicago.</p> <p>Aldrich, Nelson W., Providence, R.I.</p> <p>*Aldrich, Thomas Bailey, Boston, Mass.</p> <p>Aldridge, George W., Rochester, N.Y.</p> <p>*Alexander, John W., 120 Broadway, New York City.</p> <p>*Allen, James Lane, 66 5th Ave., New York.</p> <p>Allen, S. H., 501 Jackson St., Topeka, Kan.</p> | <p>Allen, Thomas, 12 Commonwealth Ave., Boston.</p> <p>Allen, Miss Viola, 27 W. 93d St., New York City.</p> <p>Allen, William A., Madison, Neb.</p> <p>Allison, Hon. W. B., 1124 N St., Washington, D.C.</p> <p>Ames, Gen. Adelbert, Lowell, Mass.</p> <p>Ames, James Barr, Cambridge, Mass.</p> <p>Amory, Robert, M.D., 279 Beacon St., Boston.</p> <p>Anderson, E. Ellery, 27 William St., New York.</p> <p>Anderson, Rev. Joseph, D.D., Waterbury, Conn.</p> <p>Anderson, Warren E., Pensacola, Fla.</p> <p>Anderson, Winslow, M.D., 1220 Sutton St., San Francisco.</p> <p>Andrews, Charles, Syracuse, N.Y.</p> <p>Andrews, Hon. Charles B., LL.D., Litchfield, Conn.</p> <p>Anthony, Prof. Wm. A., Cooper Union, New York.</p> <p>Archer, Frederick, Carnegie Institute, Pittsburgh, Pa.</p> <p>Ashley, Prof. Clarence D., LL.D., N.Y. Un. Law School, New York.</p> <p>Ashley, George Hall, 15 W. 22d St., Indianapolis, Ind.</p> <p>Ashmore, George C., M.D., 794 Republic St., Cleveland, Ohio.</p> |
|--|---|

- Atwood, Charles E., M.D., "Bloom-  
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- Beach, H. H. A., M.D., 28 Common-  
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## NECROLOGY.

During the past year the Association has suffered the loss of notable members long and honorably identified with its history and development,—men whose contributions to the literature of social science and whose counsels in the direction of the affairs of the Association will be treasured in the memories of their co-workers. Among these may be mentioned Hon. Francis Wayland, LL.D., Hon. Charlton T. Lewis, LL.D., Colonel H. M. Boies, Hon. Seymour Dexter,—men not only well known in their respective communities, but of wide repute in special fields of sociological investigation. The following tribute to the memory of Judge Wayland was read by F. B. Sanborn, honorary president of the Association, at the Boston meeting of the Association:—

Hardly any of the ladies and gentlemen who hear me can remember, I think, when our genial, talented, and philanthropic friend, Judge Wayland, was not a member of the American Social Science Association. But a few of us can by an effort which takes us back into that misty and germinating spring-time of our society, so much like these growing and glowing days of May, when youth could be predicated of some of us, and when the spirit of youth animated those who had passed beyond the extreme boundary of that period in life. He did not, I think, participate, except as an auditor, in the general meeting we held at New Haven in October, 1866, when his neighbor, Professor Gilman, at that time, and President Woolsey were prominent in our debates. But about ten years later, if I remember aright, he joined us at Saratoga, and soon came to be the head of our Department of Jurisprudence, in which he continued active until infirmities beset him, and deprived us of his cheering presence at our gatherings, whether of the whole Association or of the Council, in which he was always active and efficient. In all, then, for more than a quarter-century he was of us and with us, and for three years was our President. No man has rendered such long and so efficient service to the cause of social science as Dean Wayland; and

the title he bore in the Law School, to which he was daily and hourly devoted, might well have been given him in our body,—he was the *Dean of Social Science*.

Yet, when it is asked what written work remains to testify of his service or what institution can be pointed to as his creation, his friends might hesitate a moment for an answer. I suppose the Law School at New Haven could never have been what it is but for him, yet it existed before he put his energetic hand to the work of its reorganization. He wrote readily, logically, wittily, and constantly, yet never concentrated his efforts upon a particular task of literature, ethics, or jurisprudence. He did not seek political distinction or the glory of the successful orator. He allowed others, far inferior to himself in all that constitutes fitness for public duty, to pass him in the dusty race-course for municipal and national honors. Partly this might be for the reason that the American way of life, so toilsome to many, especially in his chosen profession, was made easy to him by favoring circumstances, and he was not called upon to put forth those exertions which lead to professional distinction. He early reached that life of leisure which is the professed goal of educated men, and he had something of those leisurely habits which naturally result. But along with this capacity for leisure there existed in Wayland's conscience, from inheritance and upon principle, something which kept him ever awake to the call of moral duty. It was not that sensitiveness which Matthew Arnold so strikingly pictures or suggests in the nature of his friend Arthur Clough:—

"Some life of men unblest  
He knew which made him droop and filled his head;  
He went, his piping took a troubled sound  
Of storms that rage outside our happy ground;  
He could not wait their passing—he is dead."

No, Wayland was susceptible to many impressions, but not to the melancholy of poets. He was cheerfulness itself, and had such robust faith in the Ruler of the universe that he had no temptation to despond. His was that nobler uneasiness which springs from a wish to share with others the good for which one is devoutly thankful, but does not ascribe to any surpassing merit in himself. Also, he had that sense of duty

to the community which finds its best expression in rendering unpaid service to the land and the people among whom our lot is cast. Wayland would not sourly abstain from the good things of this world, but would take some pains that others should have their share. He had, too, in a milder form that quality which General Jackson once tersely expressed, in trying to save one of his friends from the reproach of being thought quarrelsome. "My friend, Patten Anderson, sir" (to the lawyer who was cross-examining him, and with a piercing glance intended to point the remark in that direction), "was the natural enemy of all *scoundrels*." The crookedness and depravities of his fellow-beings excited in Wayland a mixture of disgust and animosity which loathed the sin, but viewed the sinner with compassion. Hence he was well at home in his position of reforming prison discipline, and disposing, once for all, of the vicious tramp.

It was in a report on tramps to the Conference of Charities at Cincinnati, in 1878, if I am not mistaken, that I first came into fraternal co-operation with Judge Wayland. The meeting was a joint one of this Association and the conference,—the last we ever held in that combination,—and we were hospitably entertained by the good people of Cincinnati, with their happy blending of Southern courtesy and Northern ideality. There for the first time I came to appreciate Wayland's noteworthy social gift. Our mutual friend, Frank Bird, the Warwick of Massachusetts politics, used to say that his own chief talent was to get a dozen good fellows together round a dinner-table; and Wayland had the same art. It must include, however, to suit his taste, a fair representation of agreeable women; and our Association owed much to him, for twenty years, in bringing to our meetings, for the reading and discussion of papers, so many brilliant and charming women. Saratoga was his chosen field for this; and he held us there during his presidency and for ten years after by this annual attraction of the gentler sex, instructing us about health and education, and rendering the small *tables d'hôte* at the United States Hotel, sparkling with wit and grace in conversation. We miss this amiable element now for several years, and I hope it may be restored to us by Wayland's successors.

I was long associated with him in this career, not of glory,—ah, far enough from that,—but of social service to our country. As we were leaving Saratoga for the last time, after one of our week's sessions there,—for Wayland seldom contented himself with less than a week,—he said to me: "We have kept this up, for a long time. How much longer can we hope for it?" A few years more were allotted to us,—at New Haven and at Washington,—and then the curtain fell. An incapacitating infirmity came upon him. He endured it with the same good cheer that had marked his days of strength and activity; and his light went out at last, as it had shined for a lifetime, beaconing the way for others less fortunate, but with no premature darkening of its rays.

"Yes, thou art gone! and round me, too, the night  
In ever-nearing circle weaves her shade:  
I see her veil draw soft across the day,  
I feel her slowly chilling breath invade  
The cheek grown thin, the brown hair sprent with gray;  
I feel her finger light  
Laid pausefully upon Life's headlong train;  
And hope, once crushed, less quickly springs again.

"And long the way appears, which seemed so short  
To the less practised eye of sanguine youth;  
And high the mountain-tops in cloudy air,  
The mountain-tops where is the throne of Truth:  
Unbreachable the fort  
Of the long-battered world uplifts its wall;  
And strange and vain the earthly turmoil grows,  
And near and real the charm of thy repose,  
And night, as welcome as a friend, would fall."

We shall be fortunate if, when that night shuts down, it finds us as useful in our generation and as sincerely lamented as the companion of our toil and pleasure, whom Mr. Kingsbury has so well portrayed in his communication.

The communication from the pen of Hon. F. J. Kingsbury, referred to in Mr. Sanborn's paper, is as follows:—

Since our last meeting this society has sustained a serious loss in the death of one of its life-members, the Hon. Francis Wayland, LL.D., of New Haven, Conn. Dr. Wayland was

the President of this society for three years and Chairman of the Department of Jurisprudence for more than a quarter of a century. He never missed a meeting when in the country until detained from the last two by illness.

He had a genius for organization. He was always one of the earliest to get the work of his department provided for, and that in the most satisfactory manner.

At our annual meetings he was early on the ground, and took an active interest in all matters of detail connected with the meetings.

His commanding figure, his genial bearing, his sound sense, and his keen humor were conspicuous among the attractions of our society.

Those of us who knew him best will not perhaps miss him long, but to those who remember him at all it will be a regret to miss his presence and a pleasure to enjoy its memory.

*Resolved*, That this minute be entered on our records and a copy transmitted to Mrs. Wayland.

At a meeting of the Board of Directors held in New York City, Jan. 13, 1904, this minute, introduced by the General Secretary, was also adopted and ordered on file:—

*Resolved*, That in the death of Hon. Francis Wayland, LL.D., formerly President of the Association and for many years Chairman of the Department of Jurisprudence, this society has suffered irreparable loss. During the extended period of his connection with the American Social Science Association, Dr. Wayland labored incessantly to promote the best interests of the body whose activities were enlarged and quickened by his unremitting attention to the administrative duties which he performed with signal efficiency, thoroughness, and tact. Even in the years of physical enfeeblement and trial his interest never wavered, and to the last his hope of further participation in the work of the Association did not falter. The members of this Board bear willing and eager testimony to the wise and gracious influence of Dr. Wayland in shaping the executive affairs of the Association, so as to promote not only inward harmony, but also that concerted and far-reaching effort which should characterize an organization national in scope. His presence and words inspired both confidence and courage to undertake achievements wholly in consonance with the recognized aims of the American Social Science Association, and he assumed whatever burden was laid upon him with a cheerful promptitude which served as a constant stimulus to his associates. In his death we are deeply and painfully conscious of a strong prop withdrawn, and



his memory will be tenderly cherished as the memory of a loved and honored associate ever foremost in labors for the upbuilding of his fellow-men into the larger stature of manhood.

From the columns of a Scranton (Pa.) newspaper we are privileged to insert this editorial summary of the rare personal qualities of Colonel Henry M. Boies, for some years a member of the American Social Science Association:—

### HENRY M. BOIES.

To what was said Saturday in the hurriedly prepared but yet very accurate sketch and estimate of Colonel Boies little remains to be added, except to point out some of the qualities of the man which make his loss so keenly felt.

He was a rare combination of the captain of industry, the student, the social reformer, and the militant Christian gentleman. Seldom do we find in one person so many elements of force and distinction. In each of these sides of his character he was not content to be inconspicuous: he led. Nor was his leadership prompted by mere egotism or the love of men's applause. It was due to unfailing energy, inexhaustible moral courage, and to the consciousness of the obligation which he owed to his fellow-men. He had been blessed with wealth, and he used it to do good. He had been blessed with natural ability of a high order, and he cultivated his talents and gave the benefit of them freely to the community. He did not know the meaning of the word "compromise" where a principle was involved; and yet, with all his firmness and sternness, he was most tender-hearted and humane. By the most of us he is best remembered as the fighter, who poised his lance full against every target of evil that came within his observation, and thrust the weapon forward with unflinching hand. Yet there are hundreds of homes in which his memory is cherished because of kindnesses shown without publicity. As a controversialist he stood with his back against the rock of his conviction and challenged the world, but as a man he held his power and means as a trust for instant accounting at the call of worthy purposes or of human misery or distress.

## I. DEPARTMENT OF JURISPRUDENCE.

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### I. NEW ASPECTS OF EMPLOYER'S WELFARE WORK.

BY JOHN GRAHAM BROOKS, PRESIDENT OF THE ASSOCIATION.

It carries no overstatement to say that thousands of employers are now showing very unusual concern about what are known as Welfare Institutions. "What can I do with my workmen to secure more contentment and stability in my business?" is a question one hears on every hand from first-rate men of affairs. There is scarcely an industrial centre in which specific employers are not either trying some betterment scheme or anxiously brooding over one.

If it is asked why this interest has just now so general a quickening, the answer is probably in the plain facts of more effective trade-union assertion and of general industrial friction so wide-spread and so serious as to compel attention to all practicable possibilities of lessening this waste within the wage system.

Aroused curiosity about welfare work of all kinds is of course only one phase of the new solicitude about the working of our industrial system. Another phase appears in those employers' associations which enter the field with no positive or constructive policy but only to measure their strength against the trade unions.

Other employers' associations recognize the trade unions outright, even though it involve the principle of the closed shop; an absolute unionizing of the business. Through joint agreements, employers and wage-earners work to the common end of deciding together wages, hours, and conditions of service.

Under the principle of collective bargaining, labor disputes the traditional right of the employer to exercise *entire* authority over the business. It is under this joint agreement that there is slowly working out a division of this authority. That

this authority should be divided is now admitted by our highest court decisions, by public opinion, and by hundreds of employers. The feudal and unawakened employer is still fighting for the whole authority; while the newer, more ignorant, and reckless trade unions are asserting a sovereignty over the business that would cripple it if these claims were not checked.

It is between these extremes that the joint agreement is doing its educational service in showing where the division of authority lies between employer and employed; where these dividing lines are to be drawn, so that business enterprise, efficiency, and success shall not suffer.

That the delicate and costly risks of the business are so largely on the side of the employers is proof that his area of rights must be clearly defined and definitely understood by his workers. It is precisely this work which joint agreements are now doing in this country. I note them here because they belong to welfare institutions in their highest form.

This change of opinion about authority among many of those who direct large affairs should be stated together with another opinion which one hears more and more from very able men; namely, that a great deal more information about employers' methods can be given to the workmen without the slightest injury to the business. How much secrecy is still necessary, how much and what kind of information may be imparted, is of course in each business a purely practical question, but that secrecy has been a good deal overworked is now one of the commonest admissions. The statement of this fact has its place in the present discussion because labor under welfare institutions cannot possibly be educated without information about the business, especially information about fixed charges,—information about its risks, its difficulties, the nature of competition, and, as far as practicable, even about the profits.

A successful employer, J. D. Hibbard, president of the Chicago Metal Trades Association, has just said publicly that his association is using the joint agreement to educate their fifteen thousand men on these more obscure business difficulties. He adds, "We are taking them into our confidence in a straightforward manner, and showing them facts and figures."

He says further, "But the employers need education precisely as much as the workmen."

President Eliot reports Agassiz as saying to him long ago that he could not understand why the employers refused these confidential relations with their workmen.

We do not dare any longer to use the French word *patronage*, which is, I think, the only single word which historically stands for what we are discussing. *Patronage* is that extra betterment work done by employers for their workmen. The best writer on *patronage*, Hubert Valleroux, says its origin was in the affable relation of certain Roman patricians toward their *plebs*; but it developed in certain religious and feudal conditions which one may still see in a score of places in Europe where the business is carried on in small and isolated country districts, like the Val de Harm. I have there heard the workmen and women uniformly speak of the employer as *le bon père*, *le bon patron*; and there is a beauty about it, like that of a time-tinted ruin. I wondered what degree of merriment it would arouse among Pittsburg iron workers or Chicago stock-yard men to hear Mr. Frick or Armour seriously spoken of as *le bon patron* or the good father. So far as we are concerned, in this country this feudal tradition of *patronage* is at an end. It dies rapidly in Europe whenever it is touched by city life. Its association with various charity benevolences would alone discredit it.

The American employer has few keener solitudes than to have it understood that he is not a philanthropist. If he puts in bath-rooms, a lunch counter, banking or insurance benefits, he is sure to tell you that it is business, and not sentiment. Any mixture of philanthropy and business is felt to be either very callow or stupid. If he can persuade you that his ventures turn him a good dividend, he is content with his justification. This anxiety not to be thought sentimental is itself a little mixed; but it is extremely wholesome, and marks a great gain toward more democratic relations in the world of business.

I have called this shame at being thought a philanthropist in business confused, because obviously certain employers have a genuine human interest in the lives of their working-people beyond and apart from wage payments, and therefore

give themselves great trouble in doing things that are strictly philanthropic for their employees. I never heard a suspicion, for instance, that the English Cadburys were led to carry out their imposing welfare work merely for business advantage. There are those in this country, like the Cheneys, of South Manchester, of whom it is equally true.

We are, however, on very slippery ground so long as we test this question by the motives that are supposed to guide employers. We cannot in any case know motives, and should in most cases find them bewilderingly mixed. What we can see with some measure of clearness is that the employer desires stability of service. If he is in a country town, he may be driven to welfare institutions to keep his help from yielding to the fascinations of the city. If he is free from trade unions or is too much plagued by them, he may therefore resort to every welfare device which tends to bind his helpers to him by their interests. Some form of bonus on wages, ownership of the home, insurance benefits, free medical care, libraries, clubs, insurance of workman's tools, organized sports, halls for social intercourse, have this tendency to prevent hostile action against the business.

There are also plenty of instances in which employers—but half consciously perhaps—use welfare institutions for the purpose of securing cheaper help, as certain mercantile houses insist that the girls in their employ shall live at home, where their partial support makes it easy to get them at a low wage. Both these motives—to prevent or cripple the trade unions and to get cheaper labor—have played an immense rôle in labor history. It is this history which accounts fully for the ugly suspicion everywhere showing itself among wage-earners that practically all this betterment work is a device to do one of two things,—either to keep down wages or to lessen the independence of the workman. Historically and upon the whole, it has to be said that this suspicion has its justification.

It is precisely here that the employer meets squarely his present-day difficulty. The arduous task is his of making it fairly obvious that he is not trying to cripple labor organization or to check the rise of wages by his betterment schemes. That he is not trying to check the rise of wages may be easily shown. It is far harder to show that his improvement plans

are not aimed at that form of labor independence that is secured through the recognized principle of collective bargaining.

It is perfectly fair game for the employer to use welfare institutions to beat the unions, if he *can*. There are industries and country districts where this is easily possible for so long a time as to make the game worth playing. Barring these exceptions, the hazards are too great. Over the general field on which organized labor has come to stay, no wise employer will enter upon this tilt as his chief purpose. No one will be so quick to know and to resent the scheme as the workmen themselves. The employer cannot moreover take one successful step further than that which secures a sympathetic co-operation of labor.

I have known three employers who built churches for their helpers, but in each case those for whom the edifice was intended never showed the slightest interest in the church. I have known restaurants, schools, stores, libraries, all to fail miserably for the same reason.

Even if it be the devil's own work, the trade unions have created a spirit of independence which makes it very awkward for the employer to bestow any sort of gift on labor. There is instant suspicion that it means a lessened independence. Few phrases are oftener on their lips than the classic line, "Beware of the Greeks bearing gifts."

I come now to what seems to me the *crux* of the difficulty. *Patronage* began by doing everything for the laborer. Largely out of the democratic spirit of 1848 in Europe; we find a change in the most enlightened patronal work, which appears in attempts to give labor a conscious and directive part in the business. Whether it be profit-sharing, clubs, sports, insurance, co-operative stores, restaurants, success has gone about as far as *this conscious and directive voice of the workman* in some phase of the business has been recognized.

In every coming day, success in welfare work will be more difficult without this participation of labor in the scheme. A Chicago employer, full of good will, confidently starts a lunch counter, and is indignantly amazed that his men and women go to his cheaper and better food very grudgingly, and insist that they shall be waited upon, in spite of the fact that they had been going to an outside restaurant where they

waited upon themselves. The employer finally threw the whole management upon committees of his employees, who have made it a success. They then at once agreed to wait upon themselves. Something strikingly like this is reported to me by a member of this Association as occurring in his own business.

Where, then, may one draw the line of possible progress more definitely and more delicately in touch with that spirit of labor independence from which, for good or ill, we never again shall be free?

Every rise in sanitary appliances, every organization to satisfy the sport instinct, the hall of recreation, and libraries, lectures, and music have their own excellences, and will more and more be used as a constituent part of far-seeing business management. Yet, as coming directly from the initiative of the employer, they clearly do not meet all the requirements or the highest and most pressing requirements. Nothing less than some conscious and directive part in the business on the side of labor rises to the need of the hour.

To say where and how this voice of labor in a specific business shall be recognized is pretty nearly the only great question in welfare work. Nothing of first importance is done which leaves this out. Most employers, hearing this statement for the first time, pronounce it hopelessly impracticable. I have heard it scouted by employers who were actually beginning to practise the thing they flouted. That labor's voice in the business cannot begin with the market side of the enterprise—with buying, selling, and initial direction—is too clear for discussion. Here are the highest and hardest tests of business capacity; here are the test of industrial ventures; here the great risks culminate. Town-meeting interference at this point would open every door to swift disaster. I assert without hesitation that the strongest and best trade unions in this country have been educated to understand this and the reasons for it. Especially where the joint agreement has been adequately tried, have the leaders learned how supremely difficult this chief part of business management is.

There are, however, other sides of business where the voice of labor may safely have organized expression. The proof is that at a hundred industrial centres one may now see this

working with hopeful efficiency. Let me give two illustrations, the first to show this work in its earlier and tentative stages, the second to show it far advanced.

The first is the Williams manufactory for drop forgings in New York City. Some ten years ago a room fifty feet in length was built upon the roof.

Eleven shower, or rain, baths are erected on one side of the room. Each chamber, with a space three by five feet, is large enough for a workman to move about with ease while enjoying the overhead spray that is connected to pipes conveying hot and cold water. . . .

Another laudable innovation connected with the establishment is its tool insurance. In its fire insurance policies the company includes a sufficient amount to cover the hand implements used by its workmen. Some of these tools kits are quite valuable, and to each owner a free policy is issued by the concern to protect him against the loss of his property by fire.

There is a *branch* of the Brooklyn Public Library in the works; and the men are permitted to borrow books and magazines, which they read at home.

Twice a year *prizes* aggregating \$100 in cash are awarded to employees for best suggestions relative to management, manufacturing, or anything pertaining to the business. The first prize is \$50, the second \$25, the third \$15, and the fourth \$10. Excellent suggestions are sometimes submitted, and these are adopted by the company. . . .

The *society has a regular physician*, who is paid \$1 per year for each of the 223 members at present in affiliation with the association. He is under agreement to promptly attend sick cases, and to report at stated periods the condition of his patients. There is in the employ of the establishment a former drug clerk, in whose charge the management has placed necessary medical and surgical supplies to be applied as a first-aid to employees who may be injured while working. . . .

Concerning accident prevention the company has proceeded beyond the requirements of the factory acts in guarding machinery.

I give this illustration because it contains some of the experience we want. Its carefully devised mutual aid association works through the organized co-operation of the wage-earners, which is at least a beginning of that education which leads toward the ideals of copartnership. But equally important is its intelligent purpose to avoid just grounds of com-



plaint from the trade unions. It has thus far no trade union; but it claims to have the proofs in hand that it does not use piece-work to cut wages, but has voluntarily raised them, as it voluntarily lowered the working hours. The management says its purpose is to work the scheme so that the result shall not appear in any form of paternalism, but progressively through higher wages. Now, if this account, which is authorized officially by the Department of Labor in New York, is to be trusted, it indicates what first-rate management may do in an open shop or even with no union men at all. To surpass the legal standard in sanitation and hours, as well as to meet the prevailing trade-union wage, is to do the chief work for which the trade union stands.

The beginning and end of the trade-union struggle is to secure a higher standard of living for the worker; but, if any employer does this himself, what motive is there to join the trade union? Of course, the trade union answer to this is too obvious to state; yet there is a growing purpose on the part of many high-class employers to meet unionism in this way; and in many cases it is at the present moment succeeding. It is a success which depends, moreover, wholly upon the active co-operating good will of the workmen, the kind of good will without which no really progressive step is possible. For instance, the call for the social secretary is now in the air; but what can this sociological go-between, paid by the employer, accomplish in an atmosphere of hostility? Again, there is much discussion now upon the advisability of throwing a part of the shop discipline upon labor committees; but what could this accomplish without genuine good will all round? The truth is that the large part of welfare work which has about it a single taint of feudal complaisance is no longer worth trying, except in primitive and half-feudal conditions that are fast passing away.

The second illustration carries the purpose and spirit of this work to a far higher point of effectiveness. It is the private London Gas Company under the direction of George Livesey, with a capital of thirty-five millions and yearly receipts of nearly seven millions. Thomas Livesey, the father, began, amidst much jeering of business associates, by giving with pay an annual week's holiday. This was increased to a fortnight

because it was found to work. This was followed by sick and superannuation funds. About 1890 profit-sharing began; and in 1894 a further step was taken, which may be described in Mr. Livesey's phrase: "Profit-sharing is only a half-way house to copartnership." This was the admission of workmen on the board of directors.

The stages which led to this may be put in his own words:—

First, the agreements for a fixed term of service.

Second, profit-sharing, creating a union of interests.

Third, shareholding, or partnership in the profits and risks.

Fourth, "workmen directors," or partnership in control.

The last statement I have seen from him contains these words:—

We have had for the last six years a joint committee of workmen elected by ballot, and an equal number of officials nominated by the directors to manage the profit-sharing scheme; and they have at the same time dealt with any other questions relating to the workingmen that had arisen.

I have heard this man called one of the ablest men in England. I give it here as one of the boldest attempts to bring a great business into harmony with the whole political and social life of the time.

Nor is this instance of Mr. Livesey any longer very exceptional. In fundamentally different businesses, under all sorts of conditions, the voice of labor is as distinctly and as systematically recognized as in the case just given. It may be in the control of the co-operative store connected with the business; it may be in the restaurant, in the clubs, in the insurance funds, in trade schools for the children of the employees.

*At some point* it is probably possible in most businesses to make a cautious, wholly practicable beginning, though it be on the very outer edges of the business. A New England mill-owner tells me, "I am now struggling with this problem: 'Where can I begin to throw responsibility on to labor committees, so as to give them some voice at safe points?'" He admits the principle that labor should have as much copartnership as is consistent with effective management. He ad-

mits that these limits can only be tested by progressive experiment.

The well-known Paris store, the Bon Marché, with its three thousand clerks, has developed this democratic method, so that its working success was undisputed for a generation. One of the three or four largest retail merchants in this country, in speaking of that store, said to me, "I like my own store better; but I agree that such voice in the business as is given at the Bon Marché educates the whole body of clerks, and my method does not." To this final test of education every feature of welfare institutions must submit.

To come back, then, to the simple and more practical task which, though it may start with the employer, must have for its success the willing and active support of the wage-earner. As in so much other human work, it has become clear that, if habits are to be changed, the young offer the most promising material. Whether unionism is there or not, no step has more hope in it, especially in the country, than that among the youths and children of the workers, such as manual and technical instruction, lessons in domestic science, and, perhaps better than all for a beginning, school and home gardens. In the country no part of this work offers so much as these gardens. Allied to school and home, this gardening correlates with every branch of domestic science. It correlates with the savings-bank and benefit features. It is naturally a part of all artistic plans. The country business has its own considerable market where the youth can sell the produce raised to common advantage. This is no longer Utopian. With proper guidance and instruction it is more and more done.

Finally, it is very improbable that schemes here discussed can have anything like adequate growth in certain highly organized industries without further and different sacrifices on the part of the directors of business.

Where trade unions are strong and still increasing, the most imperative need is organization of employers that shall fairly match the power of the unions. This is not to decry these benefits or to postpone them, but to make it clear that stability is not to be generally won and long maintained unless an aggressive labor organization is met by an equally masterful employers' association.

The great principle of collective bargaining now accepted by economists and by a large portion of the business world is but half complete, if the trade unions only practise it. When associated employers also practise it, the full educational power of the principle will appear.

With employers organized on a level of strength equal to the unions, labor can co-operate in every phase of betterment plans. It can have its part in selecting the coming social secretary, so that he or she shall be as much its agent as the agent of the employer. With this complete organization much of the discipline may be transferred to labor committees.

This larger question is noted here because our subject can be but half discussed apart from this increasing need of employers' associations,—associations, moreover, that shall have sanity and insight enough to understand that they are not merely to crush out the trade unions, but to learn to work with them without practising or submitting to abuses. Questions like those of piece-work, overtime, the open shop, apprentices, hours of work, etc., have more and more to be worked out, not apart, but together. The employer is handicapped; and a strong union (where it acts through new locals) almost certain to be tyrannous unless it is met by some power equal in resources.

Employers' associations are now developing rapidly throughout the country. Where they have no social or constructive policy, as in Colorado and San Francisco, they are driving unions straight into a dangerous political socialism. When employers co-operate with unions through the joint agreement, they are educating themselves and their laborers to act more and more from a point of view larger than that of the individual or the class. Under the joint agreement the way is being slowly prepared for welfare work at its highest and at its best, that which gives strength, sobriety, sense of responsibility, to the entire group engaged in a specific industry. If anything is to save the future of industry from brutalities, from stoppages, shocks, and all the wretched waste and damage of warfare, it is this slow and cautious enlargement of the laborer's voice in what is also in part his business. We cannot continue to have at the same time more and more political democracy and less and less industrial democracy.

It seems to me the really great task of welfare institutions to prove by experimentation that, however gradual the process, labor is being strengthened and educated into conformity with those democratic ideals that we have socially, religiously, and politically accepted as final facts. Though a dainty man of letters, Matthew Arnold had extraordinary insight into the thing called democracy. I close with a few of his words:—

If experience has established any one thing in this world, it has established this: that it is well for any great class or description of men in society to be able to say for *itself* what it wants, and not to have other classes, the so-called educated and intelligent classes, acting for it as its proctors, and supposed to understand its wants and provide for them. They do not really understand its wants, they do not really provide for them. A class of men may often itself not either fully understand its own wants or adequately express them; but it has a nearer interest and a more sure diligence in the matter than any of its proctors, and therefore a better chance of success.

In that spirit, welfare work must find the limits and measure of its success.

## 2. TRUSTS.

BY HON. WILLIAM J. GAYNOR, JUSTICE OF THE SUPREME COURT  
OF THE STATE OF NEW YORK.

Cromwell bluntly said, "If there be any one that makes many poor to make a few rich, that suits not a commonwealth." He condensed into a homely sentence all that had been said on the subject from the time of John Ball of the Peasant Revolt to the execution of Charles I. You could not add a word to it if you tried. The same sentiment seems to be as uppermost to-day as it was when Cromwell expressed it, and nothing has evoked and even inflamed it so often and so much during the last ten years as the growth of commercial trusts. In the discussion of the subject all of the dark and sinister prophecies and forebodings of national ruin seem to have come forth from their lurking-places. But, after all is said and done, no sensible man who is correctly informed of the past can take a morose or desponding view of the present or of the future. We are better off than we ever were.

### THE PRIME OBJECT OF GOVERNMENT.

Society is organized at all only for the common weal. The prime object of government is to promote distributive justice to all. The government which hinders that object instead of helping it, the government which by favoritism of the laws helps the few to aggrandize themselves out of the toil and product of the many, has no right to exist. Government is for the general good and prosperity. Prosperity depends not merely on the amount produced, but in even greater degree on how the total product is divided. Prosperity is the highest production which the community is capable of, consistent with the mental, spiritual, and physical education, growth, and health of its members, accompanied by a just distribution of the total product among the producers. This does not mean share and share alike, but according to the intelligence, the

skill, the industry, which measures the productive capacity of each. He who produces most, whether his productive power be mental or physical or both, should share accordingly, and so on down. This system rests wholly on individual competition, without government favor to any; and competition is the mother of excellence and growth in commerce, in the arts, and in all things. But, if the total product be not justly divided among the producers in the ratio of their productive capacities, then there is not a state of general prosperity, however large the total product may be. And, if that condition be the result of the favoritism of government or of the laws, then has government failed at the one fundamental reason for the existence of government. These principles are accepted by all, and their mere statement suffices.

#### TO GOVERN LEAST IS TO GOVERN BEST.

The most sacred duty of government, therefore, is to take care to pass no statute and to do nothing to restrict production or to promote or make possible an unjust distribution of the aggregate wealth created by industry; and in such wealth must be included all public franchises, for their value is created wholly by the combined industry and consequent growth of the community. Next government has to deal with the affirmative problem of passing or not passing statutes to operate in harmony with the general economic laws for the purpose of securing a maximum production and a just division. No one can speak of this latter function of government without hesitation and grave misgiving; for it is not too much to say that, while governments have been entirely successful in the past in making laws and contrivances for the enrichment of the few, they have been up to this hour signally unsuccessful, however well intentioned, in attempting to regulate commerce for the general welfare. The history of such laws is that, instead of good, they have done infinite harm. In this respect history teaches beyond a doubt the wisdom of the political maxim, that to govern least is to govern best. If those who are now clamoring in this country for laws to regulate trade and the use of capital in commerce would read the history of such laws in England (not to mention those of the other European

countries) from the beginning of the sixteenth century to the repeal of all such laws by the great economic movement led by Cobden in the middle of the nineteenth, their voices might be stilled. At all events, they would cease to talk at random; for they would have learned the supreme danger to society of passing economic laws, not merely at random, but in the soberest wisdom and best intention man is capable of. We may soon awake in this country to a full realization that our commercial and industrial evils, whatever they may be, great or small, have their origin in laws we have passed instead of in any failure to pass laws.

#### HISTORY SHOWS FAILURE OF LAWS REGULATING TRADE.

The demand in this day and generation, the same as in past generations, is for new statutes and judicial decisions to prevent industrial monopoly, or the large aggregations of capital commonly called trusts, or to prevent the real or supposed evils to trade and to society caused by such trusts. Many seem to think that every and any ill can be cured by passing a statute. No greater fallacy ever existed. Before coming directly to the subject of trusts, the demand for government interference and restraining laws with which its discussion is beset, arrests attention; and it is of prime importance to point out from the experience of history the futility and the danger of meddling with the natural course of capital and labor and commerce by legislation and court decision. If any good may come out of it, history thus far does not show it.

Beginning in the sixteenth century, many laws were passed in England against monopoly in all its forms and for the regulation of trade. The popular clamor for such laws was great, just as it appears to be now. Penal statutes were passed against forestallers, regraters, and engrossers, as they were then called. Goods had to be sold in the established market-places. A forestaller was one who bought goods on the way to market or before they were brought to market by the producers. He forestalled the market. It was made a criminal offence to do so. The regrater was one who bought and then sold the same goods in the same market-place for a higher price. This was also forbidden by statute and made a crim-



inal offence. An engrosser was one who purchased food products and stored them up in gross, or engrossed them, as it was called, and held them to sell at his own time at a profit. He was made by statute the most obnoxious criminal of all. He was the arch monopolist. If such laws had existed in the time of Joseph in Egypt, he could not have laid up during the years of plenty for the coming period of famine. But they knew no such folly in those days.

These are only a sample of the statutes passed in England to prevent monopoly and a rise in prices. But they were wholly futile. They could not change the natural course of trade. By hampering it, however, and subjecting merchants to constant penal danger and extra expenses, they did the exact opposite of what was intended; they lessened production, caused an imperfect distribution, made prices unstable, and even brought on famine. The legislature might as well have tried to regulate the seasons. In the words of Macaulay, "In spite of the legislature the snow would fall when the sun was in Capricorn and the flowers would bloom when he was in Cancer." But owing to the teachings of Adam Smith, and under the enlightened leadership of Burke, many of these laws were repealed in 1772. Four years later Adam Smith published his great economic work, "The Wealth of Nations." I never read a line of this incomparable man without mentally saying of him what our Emerson has so finely said of Shakespeare,—*"He was a wonder; he struck twelve every time."* But, when the legislature repealed the worst of these laws, the courts of law forthwith placed themselves obstinately in the way of the reform. I need not say that in one way and another courts have done a good deal of that in the world's history. But the decisions of courts have never thwarted the moral sense nor the enlightened purpose of any people, nor permanently changed the natural course of events. The decision of that august court of the Sanhedrim which condemned Jesus to death insured the growth and triumph of Christianity; and the decision of that other august tribunal remanding the negro boy Dred Scott back into human slavery, only hastened the coming liberation of the slave. The English legislature repealed these statutes, but the judges said that the common law had from the beginning been the same as the stat-

utes, and that the repeal of the latter revived the common law. This left the law unchanged; and they continued to try and convict forestallers, regraters, engrossers, and so-called monopolists, the very same as under the statutes. Blackstone says that the common law reposes in the bosom of the judges, and that is where Lord Kenyon and his associates found it after Parliament had repealed the statutes. It had slept there for two centuries without any one knowing it, not even the judges themselves.

Any one curious on the subject should read the trial of Rusby for regrating thirty quarters of oats, before Lord Kenyon in 1799, as it is given in Peake's Reports. "Though in an evil hour all the statutes which had been existing above a century were at one blow repealed, yet, thank God, the provisions of the common law were not destroyed," exclaimed Lord Kenyon to the jury. That "master of moral and political wisdom," as Gibbon calls him, Adam Smith, was denounced by the judge. He had written that the fear of the offences created by the statutes regulating trade was ridiculous, that such offences were no more to be feared than witchcraft. Quoting this, Lord Kenyon exclaimed: "I wish Dr. Adam Smith had lived to hear the evidence of to-day, and then he would have seen whether such an offence exists, and whether it is to be dreaded." Poor Dr. Adam Smith; how little he appeared that day in that court compared with the great Judge Kenyon! But how is it now? Rusby was of course convicted and sent to prison for having sold at a profit a few bags of oats in the same market-place in which he bought them. That Lord Kenyon's inflamed state of mind only reflected the mind of the community was shown by the statement of Rusby's counsel to the jury, that to call a man a regrater or forestaller in those times was to put a wolf's head on him, and offer him as a prey to mankind. To hear some talk, you might think it is the same among us now. But finally in 1846, in response to the great economic movement led by Cobden, Parliament at one stroke did away with all such interferences with trade, whether by statutes or by common law, and English commerce was left to the government of natural laws alone. I cannot do better in quitting the subject than to read to you this passage from Buckle in his

"History of Civilization in England," concerning restraints on trade by law, namely:

Every European government which has legislated respecting trade has acted as if its main object was to suppress the trade and ruin the traders. Instead of leaving the national industry to take its own course, it has been troubled by an interminable series of regulations, all intended for its good and all inflicting serious harm. To such a height has this been carried that the commercial reforms which have distinguished England during the last twenty years have solely consisted in undoing this mischievous and intrusive legislation. It is no exaggeration to say that the history of the commercial legislation of Europe presents every possible contrivance for hampering the energies of commerce.

Happy will it be for the welfare of our time and the next generation if every legislator and every judge before whom questions of legislation and of the administration of the laws in respect of capital and labor and commerce come will have studied or will study the history of the blind, narrow-minded, and futile legislation and judicial decisions of the past on the subject. For the time being they passed for the height of wisdom, only to stand revealed to following generations as the height of folly. They justified the observation of John Stuart Mill, that "it often happens that the universal belief of one age of mankind becomes to a subsequent age so palpable an absurdity that the only difficulty then is to imagine how such a thing could ever have appeared credible."

#### WHAT A TRUST IS.

But, coming to immediate contact with the subject of modern commercial trusts, we have first to understand what such a trust is. Professor Clark, of Columbia University, says that according to the use of the term in popular thought and speech, it is "any corporation that is big enough to be menacing." But this does not seem to be at all accurate. The term, when first used as a designation for large aggregations of commercial capital, was applied to combinations or partnerships of former competing corporations only. The first commercial trusts of which anything is generally known were the Standard Oil

Trust and the Sugar Trust. The former was formed in 1882, I think, and the latter in 1887. The Standard Oil Trust was made up by a combination or partnership of about thirty-nine different oil corporations dispersed throughout the country, and holding charters from different States. The Sugar Trust consisted of a combination or partnership in the same way of sixteen sugar refinery corporations. Every corporation is, of course, a trust: its property is held and its business managed by a board of trustees elected by the shareholders; but the term "trust," as it has been used from the first in respect of aggregated commercial capital, means not one corporation, but a combination or union of a number of corporations under one control.

#### HOW THE FIRST TRUSTS WERE FORMED.

The Sugar Trust was formed as follows: The shareholders owning all or a majority of the shares of stock of each of the sixteen separate corporations turned their share certificates over to eleven trustees, and received back from them in exchange trust certificates according to a basis of exchange which had been agreed upon. The whole scheme was expressed in a trust agreement. The trustees, by getting in their hands a majority of the stock of each corporation, became, of course, the absolute controllers of all of the corporations; for they as stockholders elected the directors. The earnings of all of the corporations were massed in a common fund, and divided pro rata among the holders of the trust certificates. In that way the shareholders in the several corporations became entitled to share in the aggregate profits of all of the corporations instead of being limited to the profits of the particular corporation in which they had been shareholders. In a word, the several corporations were completely unified. They were made one business concern, under one management, all competition among them being thus destroyed. The formation of the Sugar Trust was modelled on the Standard Oil Trust, which had been formed several years before.

### TRUSTS DECLARED ILLEGAL BY THE COURTS.

The fate of both of these trusts was the same: they were adjudged to be illegal by the courts. The attorney-general of the State of New York brought a suit in the name of the people of the State against one of the constituent corporations of the Sugar Trust to have its charter forfeited for having entered into the trust combination. The final decision on appeal was given by the Court of Appeals of the State of New York in 1890, and may be found in the 121st volume of the reports of that court. The opinion there given for the court by Judge Finch forms an interesting chapter in the literature of trusts. It was decided, in brief, that while individuals could enter into copartnership, corporations could not; and judgment of death was rendered against the offending corporation before the court. While this suit was pending, the attorney-general of Ohio brought a similar suit against the Standard Oil Company of Ohio, one of the thirty-nine constituent corporations of the Standard Oil Trust. The Supreme Court of Ohio also adjudged the combination illegal, and that the offending corporation before it should forfeit its charter and be dissolved unless it withdrew therefrom.

### STATE LEGISLATURES THEN PASSED ACTS ENABLING TRUSTS TO FORM.

These two decisions made all of the trusts, namely, combinations or partnerships of corporations, illegal. They had to dissolve, for it was impossible for them to continue to do business. They were, so to speak, outlawed. They could not do business without the aid of the courts and the laws, and that they could no longer invoke. And this brings us to the most extraordinary chapter of all in the history of these commercial trusts. The courts had destroyed them. There seemed to be an overwhelming public voice against them, on the ground that by getting control of an industry and destroying competition they were enabled to raise the price of their product to the consumers and at the same time lower the price they paid to the producers of the raw material they used. But, unless representative legislative government is a complete failure in

our States, the majority of the people were really not opposed to trusts at all, and the voice of opposition, though loud, was that of a minority. A small minority, as you know, often makes a noise out of all proportion to its size. One strident grasshopper in the angle of a fence makes more noise than the noble herd near by, and the like is true of one strident little demagogue man. If, however, the voice of opposition was that of the majority, then never was majority so grievously betrayed by its representatives in the legislatures of the States; for they forthwith enabled competing corporations to combine under one management, thus making the decisions of the courts inapplicable and ineffective. This was done by passing statutes providing that corporations might be formed to own and hold the stock of other corporations without limit.

In this way the stockholders of any number of corporations were enabled to turn their certificates of shares over to such a stockholding corporation, and receive in exchange the stock certificates of such corporation, which in that way became the one owner and controller of all of such corporations. The process is the very same as that by which several corporations were formerly put in control of the same set of outside trustees in order to be under one control, and which the courts, as we have seen, condemned as illegal. It is by this new device of one corporation owning the stock of other corporations that the Standard Oil Trust and the Sugar Trust, which were dissolved by the courts, and all of the trusts, exist to-day. The courts condemned and destroyed the trusts, namely, all combinations or partnerships of competing corporations: the legislatures straightway enacted laws to enable them to form and exist. What the courts did in destroying them, the legislatures undid by means of enabling acts in their favor. This is certainly all very extraordinary in a representative government, if it be a fact that the majority were opposed to such trusts. And what is more extraordinary still, and so inconsistent as to be grotesque, the same legislatures were engaged at the same time in passing all sorts of so-called anti-trust statutes forbidding combinations in restraint of competition and trade. History furnishes no other record of such inconsistent legislation being passed at the same time. Some will say the legislatures were bought by the trusts. I do not say

so. The future historian would have to laud the legislatures for having been wise and right in providing a device for the combining of competing corporations, if time and the event shall prove that such combinations are not a curse but a blessing, were it not for their contemporaneous statutes which seem to breathe the very contrary as their settled policy.

#### THE NEW TRUST SCHEME ALSO ILLEGAL.

The next phase of the matter is whether such combinations of competing corporations by means of another corporation holding the stock of each is legal, any more than was the scheme of trustees holding the stock of corporations for the same purpose. This phase has reached development and ripened into a chapter in the legal transmutation of trusts, in the recent decision of the Supreme Court of the United States in what is commonly called the Northern Securities Company case. The case presented was the combination or partnership of two great competing interstate railroad corporations, the Great Northern Railroad Company and the Northern Pacific Railroad Company. They had combined by means of a majority of the shareholders of each turning over to the Northern Securities Company, a business corporation formed in New Jersey for the sole purpose of owning and controlling the stocks and securities of other corporations, their share certificates in exchange for share certificates in such business corporation. In that way the control of both railroad companies passed into the hands of the New Jersey stockholding corporation, and competition between them was thus done away with. The court declared the scheme illegal, and dissolved the combination. The opinions on which the judgment of the court rests, however, show that the decision was based on the fact that the stockholders of the two railroad corporations devised the scheme, and caused the stockholding corporation to be formed, for the preconceived purpose of thereby uniting the two competing railroad corporations under one control, and doing away with competition between them. It is therefore claimed that the question whether the union of several competing corporations under one stockholding corporation, without any preconceived and worked out scheme by their stockholders, would

be illegal, remains undecided. The decision of the court seems, however, to be placed on the corner-stone proposition that under the United States anti-trust statute any combination which destroys or restricts free competition among those engaged in interstate commerce is illegal. It makes no difference in the effect on commerce whether such a combination is brought about by the efforts of the stockholders of the several uniting corporations, or whether it results by the stockholding corporations acquiring a majority of the stock of such corporations gradually, and as best it may, by stock purchases in open market or otherwise. Would there, then, be any legal difference? Suppose the Northern Securities Company had not been formed by the stockholders of the two railroad companies, but by others, and that its directors had conceived and carried out the scheme of getting control of the stock of the two competing railroad companies by purchases for cash, and thus changing them from competitors to allies, would the decision have been different? The question opens up a vast field of questions too complex to yield to hasty consideration, or, as may prove, even to carefully devised statutes and court decisions.

#### TRUSTS AND LABOR.

There is no doubt that in the beginning the attitude of the trusts was not cordial toward labor. In the Sugar Trust agreement one of the expressed objects of the combination was "To furnish protection against unlawful combinations of labor." The word "unlawful" was plainly to save appearances; for there were and are no unlawful labor organizations, although their objects and methods have sometimes been unlawful. The attitude of labor toward trusts was also one of suspicion, if not hostility, at the beginning. But time and contact have apparently very much changed the feeling of each toward the other, and substituted mutual respect, at least. This is mainly due to the growth and improvement of organized labor, and in a special degree to the improvement of its leadership. No one can deny that many labor organizations have been badly led and advised, but the change for the better in this respect has been steady. Organizations



of capital have also been badly and dishonestly managed and advised. The men who compose the labor organizations are learning the absolute necessity of having wise and discreet leaders. So far has this gone that our labor organizations are becoming centres of economic thought, and their leaders educated economists. The day of the political demagogue is also passing in organized labor. Workingmen have come to understand that their present and future depend on the favor of no one, but wholly on their own growing education, intelligence, and organization. Our system of common schools makes the future theirs. The method of protection against labor organizations contemplated by the clause of the Sugar Trust agreement which I have read was to be able to close up a refinery in which a strike occurred without embarrassment or interruption in production, as all of the other refineries in the trust would meanwhile go on. But this was soon met by the extension of the horizon of labor's organization to equal that of the trusts. The dispersed local labor organizations of the same industry were confederated, and in that way came labor trusts to meet employers' trusts. Confronting each other all along the line in this way, it was inevitable and to be expected that combined capital would come to deal with combined labor, and the result has been beneficial to both sides. Indeed, the declaration of organized capital, which we used to hear so often, that it would not deal with organized labor's representatives at all, but only with the individual worker, is now seldom heard. It had a sound of arrogance which did not suit the American people. Labor has as much right to organize as capital has, and organized capital forgot itself for the time being when it turned its back in the face of organized labor.

#### ARE TRUSTS INJURIOUS?

To ask whether manufacturing trusts have proved detrimental or beneficial is to evoke a debate in which trained economists divide. It is claimed that they lower wages, raise the price of their product to the consumer, and lower the price they pay to the producer of the raw material which they use. Those who profess to know, including workers for trusts, deny that they lower wages. It is claimed by some labor

leaders that united labor, being a match for united capital, can deal better with prosperous trusts than with many small concerns. In respect of prices, it would seem that destruction of competition must affect them disadvantageously to the consumer and to the producer of raw material to some extent. The economic law is that prices are in the ratio of production. A trust which controls an industry can prevent overproduction and the consequent lowering of prices. But this counteracts an injury to society; for a condition of low prices caused by overproduction is not beneficial, and is often disastrous. If prices be arbitrarily raised beyond a certain point, consumption diminishes; and this natural law, it is said, suffices to prevent trusts from raising prices to consumers beyond the normal economic point. Similarly, if the normal economic price be not paid for the raw material, its production declines, causing the price for raw material to rise. From the working of these economic laws it is said that the doing away with competition can have no substantial or lasting effect on normal prices in respect either of the finished product or of the raw material. I am not an economist, and venture no opinion; but I think it appears to most of us that if a trust be so large as to be the sole or the predominant buyer of the raw material and seller of the finished product, prices at both ends will be affected adversely to society, more or less, at intervals, if not constantly. The temptation, and therefore the tendency, will be for the trust to lower its buying price and raise its selling price; and it will do so, so far as it can. How far it can go without being checked by general economic laws is a most vital and interesting question.

A demoralizing evil is the issuing of bonds and stock shares by corporations, and particularly trust corporations, in excess of the actual value of their capital. This was publicly denounced in a speech by the Lord Chief Justice of England a few years ago as organized robbery of the community, and last year the foremost promoter of such fraudulent schemes in England was convicted and sent to prison. Certain of our newspapers thereupon set up a vulgar clamor for the passing of statutes in this country under which similar convictions could be had, not knowing that to set false values on corporate property for the purpose of selling corporate shares is as crimi-

nal here as in England, and that our penal statutes on the subject are just as broad as those of England. What we need is not more statutes, but such an administration by the courts of those we have as would come from a healthy moral sense in the community at large. Such convictions depend upon judges and jurymen who will convict, and they cannot be expected to have more virtue and fortitude than the community as a whole has. I see no way of removing the evil except by having substantially the same law for all corporations that we now have for banking and financial corporations; namely, requiring that every dollar of the capital stock be paid in in cash at par instead of allowing stock shares to be issued for property, which makes over-valuation easy and inevitable. But it is impossible to get any uniformity in the creation and control of corporations so long as all of the States can separately deal with the subject. To get all of the States to agree upon a system of corporation laws, and then for all to pass only the same laws, as Professor Rogers suggests, is impossible. Many are coming to the belief that the whole subject should be intrusted to the national government.

The evil which many most dread from the trusts is that they corrupt legislatures and officials by the use of money, and in that way are too powerful for government. Their finances compare with those of the United States government. To mention only one, the stock and bonds issued by the Steel Trust amount to nearly \$1,436,722,135, while the debt of the government is only \$901,470,950; it paid out last year in interest and dividends \$58,748,392, while the interest payments of the government were only \$28,556,348; its gross earnings were \$536,572,871, and the income of the government \$560,396,674; its operating expenses were \$409,268,599, and the expenses of the government \$477,542,659; its surplus was \$12,304,916, and the surplus of the government \$14,000,000. Such resources are pregnant with the power and possibilities of the mighty corporations which Hastings and Clive served.

### IS LEGISLATION NEEDED?

If the combinations of corporations which we call trusts are injurious to commerce, the only legislation needed to prevent them is to repeal the statutes which enable them to form; for these statutes were passed for the creation of trusts, as I have already stated, after the courts had declared such trusts illegal, and dissolved them, on the ground that corporations could not unite as partners. As Chief Judge Marshall said in the Dartmouth College case (and it has often been repeated):

“The objects for which a corporation is created are universally such as the government wishes to promote. They are deemed beneficial to the country; and this benefit constitutes the consideration, and in most cases the sole consideration, for the grant.”

If the object of these stockholding corporations by means of which the trusts are formed is not beneficial to the community, and therefore such as government should promote, statutes for the creation of such corporations should not be passed or suffered to remain.

### SO-CALLED ANTI-TRUST STATUTES.

In 1890 the National Congress passed a so-called anti-trust statute, and the legislatures of the States have very generally passed similar statutes. The United States statute provides that “every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal.” This seems explicit; and yet a question at once arose under it, whether it covered any except “unreasonable” restraints of trade, as is the case at common law. It was explicitly held in the *Trans-Missouri Freight Association* case, reported in the 166th volume of the United States Supreme Court Reports, that it prohibited all contracts in restraint of trade “without exception or limitation,” and is “not confined to those in which the restraint is unreasonable.” This construction was followed several times by

the court in other cases; but in the recent case of the Northern Securities Company, which I have already mentioned, Mr. Justice Brewer, who was one of the bare majority who so construed the act and established its meaning, receded, and expressed the view that only unreasonable restraints of trade were within its intendment. No one can foretell how the question will be decided when it comes up again. If the act be finally held to refer to unreasonable restraints only, then a very uncertain and elastic question of fact is introduced into every case under the act, to be tried by a judge or jury. This would reduce the working efficiency of the act to a low point. Whether a given contract is reasonable or unreasonable will be made "as uncertain as the length of the chancellor's foot," to use a phrase which denoted the varying notion of equity of lord chancellors as they succeeded each other in England. What would be deemed reasonable in the city of New York might be deemed unreasonable at Lincoln, Neb., and so on. The New York anti-trust statute is open to the same difficulty, besides being less precise; and the same is true generally of similar statutes throughout the States, none of which has been found of much, if any, use.

#### THE CRIME OF FAVORITISM IN RAILROAD FREIGHTS.

In conclusion, I come to the greatest crime of our day and generation, namely, the favoritism in freight rates on our public highways. I say crime, for more wrong has been done by it than by all the crimes defined by our statutes. It has crushed and beggared thousands all over the land. And I say public highways, because our railroads are our public highways. That the public highways of a country should be used to aggrandize some and destroy others is so infamous and so heartless that we shall be looked back upon as a generation lost to moral sense for having allowed it so long. From the beginning of government, everywhere in the world, the public highways have always been built and controlled by government, and every one given an equal use of them. This continued to be so until the coming of the steam railroads. Then for the first time in the history of the world public highways were turned over to the control of private individuals,

if we except a comparatively few turnpike roads. Instead of building and controlling the railroads itself, government granted franchises to corporations to build and control them. But they were allowed to be built only as public highways, to be used like all other public highways, for every one alike and without favor or discrimination. This is the law of their being. Railroad corporations are allowed to make a profit for their stockholders, but this is only incidental. They perform a public service, and their first and paramount duty is to government and the public. Their duty to their stockholders is secondary and subordinate. The extent to which these corporations have violated their duty by carrying the freight of some at a lower rate than that exacted of their business rivals, and so much lower as to ruin such rivals, forms the most criminal chapter in our history. This freight favoritism is the mother of trusts. The first trust was built up wholly by it. When the oil of one man or set of men, for instance, and speaking approximately, was carried to market by the railroads for one dollar a barrel while all competitors had to pay two dollars, the latter were ruined and had to quit. They could dig wells and refine oil just as well as their rivals, but when such rivals got a reduction or rebate in freight rates which enabled them to ruinously undersell all others, that was the end of rivalry. Can you conceive of a greater wrong than the public highways of a country being used by individuals to destroy and drive out their competitors in business? Many of the trusts have their own cars, and have them hauled at rates that make competition against them impossible. In the investigation of the affairs of the Boston & Albany Railroad by the legislature of Massachusetts, at the time it was about to be leased to the New York Central system, it was found that one trust had its cars billed over that railroad at a capacity of 24,000 pounds, whereas on measurement their capacity was found to be 50,000 pounds. It is said rebates are no longer paid by railroads in cash, and that is doubtless true; but here was a rebate of over 50 per cent. by a simple device. And how many similar devices are there? The extent of such discrimination was shown by the fact that the total receipts for freight, compared with the total tonnage carried, was little more than

if all the freight had been carried at the lowest freight rate on the published schedule, namely, that on coal. The evil has grown so extensive that its eradication must come before long. The Interstate Commerce Commission was created to stop it, but it has failed. It is too unwieldy. Complaints brought before it meet with all sorts of delays, and business men at a distance who make them are worn out by them. It is only another exemplification of the law's delay. The evil needs summary executive treatment instead of the slow processes of judicial procedure. An ounce of executive prevention would be worth a pound of judicial cure.

Some advocate the taking of the railroads by government. If the possibility of this experience we have had with freight rates had been foreseen, government would never have turned over these highways to corporations. But the resumption of them now would be a vast enterprise. All that we need, it seems to me, is that government appoint the general freight agent of every railroad. That would end all discrimination in freight rates. The local freight agents, though appointed and paid by the companies, would be accountable to the general freight agent appointed by the government, and dismissed for the slightest discrimination in favor of any one in freight rates. The government agent would not have the fixing of rates; they would continue to be fixed by the companies; but his duty to the government and the public would be to see that every one paid the fixed rate, and got no favor whatever.

This matter of freight rates so far transcends any other question about trusts or monopolies that it should be dealt with first of all, and its right settlement will be found to settle most of the other questions, also, if not all of them. It will restore free competition at a controlling point; for freight rates enter controllingly into the cost of every commodity at the end of its journey, namely, as it is produced to the consumer.

### 3. THE DISFRANCHISEMENT OF THE NEGRO, FROM A LAWYER'S STANDPOINT.

BY R. BURNHAM MOFFAT, ESQ., OF THE NEW YORK BAR.

Within the past few years seven of our sister States, in the South, have adopted new constitutions, amended their old ones, or resorted to legislative devices which have resulted in the practical disfranchisement of the negro voter in each of those States.

*Mississippi* was the first to attempt to accomplish by lawful means that which had for so long been accomplished within her borders by force and by fraud. 133 whites and 1 negro sat in convention in 1890, from August 12 to November 1, and there framed a new constitution with its provisions as to the suffrage, which will be referred to below. The political complexion of the convention was 129 Democrats, 1 Conservative, 1 Greenbacker, 1 Jeffersonian Democrat, 1 Republican, and 1 National Republican. The constitution so framed became effective on Nov. 1, 1890, by proclamation, without submission to the people; and the Supreme Court of Mississippi subsequently declared it to have been lawfully adopted as the organic law of the State.\*

In 1895 *South Carolina*, with a convention of 160 delegates sitting from September 10 to December 4, adopted her new constitution, which went into operation on Dec. 31, 1895.

The next was *Louisiana*, in 1898. Her convention of 134 Democrats, 1 Populist, and 1 Republican, sat from the 8th of February to the 12th of May. It had been called by a popular vote under an act of the legislature providing that, in case the convention should adopt a new constitution, it must be submitted to the people for ratification or rejection; but the convention voted this restriction *ultra vires*, and the new constitution was accordingly promulgated without submission. The Supreme Court of Louisiana has since declared it to have been duly adopted, and to have been effective since the adjournment of the convention on the 12th of May, 1898.†

\* *Sproule v. Fredericks*, 69 Miss. 898.

† *State v. Favre*, 51 La. Ann. 434; *State v. Caldwell*, 50 Id. 666.



*North Carolina* followed with an amendment to its existing constitution, which substituted an entirely new article in place of the old one relating to the suffrage. The amendment was adopted at a general election held Aug. 2, 1900, and became effective by its terms on the 1st of July, 1902.

*Maryland* was next. She did not attempt to change her organic law, but at an extraordinary session of the legislature passed an act (approved March 21, 1901) which was designed, among other things, to impose an educational qualification for the right of suffrage.

*Alabama* adopted a new constitution in 1901. In accordance with the popular vote at an election held April 23 of that year a constitutional convention of 155 delegates convened on May 21, 1901, and sat until September 3 following. The constitution which it framed was ratified by the people at a special election, and became effective on Nov. 28, 1901.

The last of the new constitutions is that of *Virginia*. A convention of 88 Democrats and 12 Republicans sat from the 12th of June, 1901, to the 26th of June, 1902; and although here, too, the act of the legislature, under which the people had voted that a convention should be called, had distinctly provided that any constitution which the convention might frame should be submitted to the people for ratification or rejection, the convention by a vote of 47 to 38 decided to proclaim their constitution *without* submission. It was accordingly proclaimed, and became effective on the 10th of July, 1902. To anticipate a test in the courts as to the validity of the constitution so proclaimed, an extraordinary session of the General Assembly, or legislature, was convened on July 15, 1902; and an oath to support the new constitution was tendered its members. The members and officers of both houses, with the exception of a single member of the House of Delegates,—a Republican,—took the oath so tendered; while the Governor of the State, all the executive officers at Richmond, the members of the Supreme Court of Appeals, and the judges of the circuit, county, and corporation courts, all took a similar oath between the 10th and the 20th of July, 1902, the time allowed them within which to take such oath or vacate their respective offices.\*

\*"A History of Virginia Conventions." By J. N. Brenaman. Richmond: J. L. Hill Printing Company. 1902.

• There can be no reasonable doubt that the *intent* of the delegates to these various conventions was to frame their constitutions in such wise as to stand the test of the Fifteenth Amendment to the Federal Constitution and at the same time withhold the ballot from the great mass of negro voters in their respective States. The *intent* of the framers of a law can of course have no bearing upon the validity of the measure except in so far as that intent may be gathered from its phraseology or may be properly inferable from the results obtained by an impartial administration of its provisions; and what the motive may be that prompted the individual delegates to vote as they did is never a proper subject of judicial inquiry. Nevertheless, it is interesting and instructive, in considering these new suffrage provisions from the standpoint of the legal critic, to note the following extracts from the speeches of the delegates on the floors of the various conventions.

The chairman of the Louisiana Convention, the Hon. E. B. Kruttschnitt, said in his closing speech at the adjournment of the convention on May 12, 1898:—

We have not drafted the exact constitution that we should like to have drafted. Otherwise, we should have inscribed in it, if I know the popular sentiment of this State, universal white manhood suffrage, and the exclusion from the suffrage of every man with a trace of African blood in his veins. We could not do *that* on account of the Fifteenth Amendment to the Constitution of the United States. . . . But we have swept the field of permissible expedients in order to keep the negro from exercising the suffrage.

What care I whether the *test* we have put be a new one or an old one? What care I whether it be more or less ridiculous or not? Doesn't it meet the case? Doesn't it let the white man vote, and doesn't it stop the negro from voting? And isn't that what we came here for? [Applause.] . . . I would say, further, my fellow-delegates, if the plan which has been adopted by this Convention had not been adopted, I fail to see any that could have been adopted to solve this problem. And I do not believe that there was any solution for it, but that we should have been forced to return to those methods which have prevailed in the elections in the State of Louisiana for the past twenty years. Now we have left those methods behind us. We have placed it within the power of the people of this State to have elections as fair and as pure as those in the State of Massachusetts herself; and I say to you that we

can appeal to the conscience of the nation, both judicial and legislative, and I don't believe that they will take the responsibility of striking down the system which we have reared in order to protect the purity of the ballot box and to perpetuate the supremacy of the Anglo-Saxon race in Louisiana. If they do, theirs be the responsibility for bringing back the methods which have prevailed in the past, not ours. We have reared a perfectly clean structure, and we intend to have a clean electorate, if the rest of the nation will allow it; and we believe that they will. [Applause.]\*

On the floor of the same convention the Hon. Thomas J. Semmes, a delegate, who was at one time president of the American Bar Association, said, in reviewing the constitution just framed:—

Now, then, what have we done? is the question. Our mission was, in the first place, to establish the supremacy of the white race in this State to the extent to which it could be legally and constitutionally done. And what has our ordinance on suffrage—the constitutional means by which we propose to *maintain* that ascendancy—done? We have established throughout the State white manhood suffrage!

And then, referring to the postponement of the alternative property or educational qualification which will be referred to below, the speaker continued:—

What is section five? It is a declaration, upon the part of this Convention, that no white man in this State,—that's the effect, but not the language,—that no white man in this State who has heretofore exercised the right of suffrage shall be deprived of it, whether or not he can read or write, or whether he possesses the property qualification. That is the meaning of it, nothing more and nothing less. It declares that every white man between now and the first day of September next, although he may not be able to read and write, although he does not possess the property qualification, may, notwithstanding, if he register himself pursuant to this ordinance of the Constitution, be thereafter entitled to vote. That is the meaning of it. If he doesn't choose to register between now and the first of September next, he loses the privilege conferred upon him, and thereafter he can only vote provided he possesses the qualifications which I have just mentioned,—the property or education. That is the temporary clause. However ill-advised it might be, however, if you choose, unconstitutional it might be, its effect expires on the first of September next; and thereafter no man will be entitled to vote who has not

\* Journal of the Convention, pp. 380, 381.

registered as provided by this fifth section, between now and the first of September next, unless he possesses the property qualification or the educational qualification.

But why was this exception made? Because—and I am ashamed to say it—Louisiana is one of the most illiterate States in the Union. It is more illiterate than any other State, except North Carolina. We, therefore, have in this State a large white population whose right to vote would have been stricken down but for the operation of this section five. And all of these men have aided the white people of the State to wrest from the hands of the Republican party, composed almost exclusively of negroes, the power which, backed by Federal bayonets, they had exercised for many years.

He then pointed out that the class of the people he referred to was the ancient Creole and Acadian population of South-western Louisiana, and continued:—

Who doesn't know the character of these people,—how simple, how pious, how reverent, and how devoted in their local attachments, living, until recently when the railroads have penetrated their domain, on the prairies? And how hospitable they are! . . . Now these people, these simple, good people, whose ancestors have been living there for a hundred and fifty years, surrounded by circumstances which debarred them from all the advantages of education,—*could* any man with a heart in his breast be willing to strike them down and reduce them to the condition of the black race that we are proscribing? [Cries of "No," and applause.] . . . The favor that we have conceded them is this: You have been kept in this condition for centuries by circumstances beyond your control; and for that reason we allow you to continue to exercise the right of suffrage without possessing a property or an educational qualification. But the circumstances and the times have changed. Your *children* must go to school. *You* must acquire property if you would exercise the right to vote, and not claim hereafter the benefit of the concessions which are now made.

Was not this politic legislation? Was it not proper legislation? And was it not essential and necessary in justice to these people?\*

In the Alabama Convention of 1901 the chairman, Mr. John B. Knox, said upon taking the chair:—

If we would have white supremacy, we must establish it by law, not by force or fraud. If you teach your boy that it

\* Journal of Convention, pp. 375, 376.

is right to buy a vote, it is an easy step for him to learn to use money to bribe or corrupt officials or trustees of any class. If you teach your boy that it is right to steal votes, it is an easy step for him to believe that it is right to steal whatever he may need or greatly desire. . . . There is no higher duty resting upon us as citizens and as delegates than that which requires us to embody in the fundamental law such provisions as will enable us to protect the sanctity of the ballot in every portion of the State.

The justification for whatever manipulation of the ballot that has occurred in this State has been the menace of negro domination.\*

And J. Thomas Heflin, a delegate to the same convention, said:—

We have told the people of Alabama for years that we wanted to disfranchise the negro. . . . The white people who love the ballot, who love the sanctity of their fireside, who love the government of their homes and of their States, want to exercise that great weapon in the defence of things that are right and sacred. We want the white man who once voted in this State, and controlled it, to vote again. We want to see that old condition restored. Upon that theory we . . . pledged ourselves to the white people of Alabama, upon the platform, that we would not disfranchise a single white man if they would trust us to frame an organic law for Alabama. But it is our purpose, it is our intention—and here is our registered vow—to disfranchise every negro in the State, and not a single white man.†

On the same day another delegate, James Weatherly, frankly said:—

The people of Alabama, exercising a revolutionary right, have decreed that the Fifteenth Amendment, in so far as it may include all of the negro race of voting age, shall not be enforced in the State of Alabama. Can any man deny the fact that, almost since the adoption of the Fifteenth Amendment, the very immunity which it sought to secure has been annulled by the unanimous voice of the white people of Alabama? Now that has been done by revolutionary methods,—by force and by fraud; and, as always happens when those methods are resorted to, other evils have been created. Fraud having become necessary, it has debauched the consciences of our people. It threatens with degeneracy our descendants, and we feel that we cannot perpetuate our decree of annulment by these methods. . . . We are in accord with the Na-

\* *Montgomery Advertiser*, May 23, 1901.

† *Ibid.*, July 26, 1901.

tional Government, except upon the one single proposition. We are not in accord upon that proposition; and we can never be if it shall be maintained that it is our duty under the Fifteenth Amendment to accord the full and unrestricted right of suffrage to the negro race,—that because he is a negro he must vote, whether he is qualified or not. We can never assent to that proposition.

Now what are we here for? I think, delegates of this Convention, that . . . we are here to put upon a permanent basis the elements which will hold our civilization together; and we are here for a still higher purpose,—namely, to restore the State of Alabama to its absolutely normal relation to the National Government, by providing a plan of suffrage which will give to the negro an equitable right of suffrage, and give him also the hope of increasing in proportion and in numbers that right of suffrage,—a fair and equitable plan upon which and by which he may, as the years go by, if he has that in him which will capacitate him for self-government, stand at last upon the same footing as the white man, so far as the right to vote is concerned, but, in so far as he shows that he is incapacitated, we want it fixed in our law, in our social structure, that he shall be disqualified from voting.\*

In Virginia a delegate who favored the so-called “understanding” clause as a qualification for registration,—that is, that an applicant for registration should, whether or not he were able to read, be nevertheless able to give “a reasonable explanation” to the officers of registration of any section of the new constitution which they might put to him,—said:—

I expect this clause to be efficient, because it will act *in terrorem* upon the negro race. They believe that they will have a hostile examination put upon them by the white man, and they believe that that will be a preventive to their exercising the suffrage; and they will not apply for registration.†

In South Carolina, Governor John Gary Evans, the chairman of the convention, said:—

There should be an educational qualification for the right of suffrage if the supremacy of intelligence is to be preserved. It is no injustice to any man, black or white, to have such a qualification; for only the intelligent are capable of governing. We must do our duty in this matter boldly and fearlessly, without regard to the censure of foreigners and aliens.

\* *Montgomery Advertiser*, July 26, 1901.

† Albert E. McKinley in *Political Science Quarterly* for September, 1903, p. 494.

We have experienced the cost and hardship of the rule of the ignorant, and know what it means.

There is no room in this convention for factional differences. . . . It is your duty . . . to so fix your election laws that your wives, your children, and your homes will be protected, and Anglo-Saxon supremacy preserved. Fix it as in your judgment appears wisest. This much is expected of you by your people and the outside world.\*

And on the day of the adjournment of the South Carolina Convention, George D. Tillman, a delegate from Edgefield, gave utterance to the following words in commenting upon the constitution which he had just helped to frame:—

We can all hope a great deal from the constitution we have adopted. It is not such an instrument as we would have made if we had been a free people. We are not a free people. We have not been since the war. I fear it will be some time before we can call ourselves free. I have had that fact very plainly impressed upon me for several years. If we were free, instead of having negro suffrage, we would have negro slavery. Instead of having the United States government, we would have the Confederate States government. Instead of paying \$3,000,000 pension tribute, we would be receiving it. Instead of having many things that we have, we would have other and better things. But, to the extent that we are permitted to govern ourselves and pay pension tribute to our conquerors, we have framed as good an organic law, take it as a whole, as the wisdom and patriotism of the State could have desired.†

I have quoted thus, at perhaps too great a length, from the utterances of some of the delegates to these various conventions, in support of what I think must be conceded as a fact; namely, that the primary purpose of the framers of these constitutions in restricting the right of suffrage was to disfranchise the negro. And the result certainly has been, generally speaking, to disfranchise him.

The Fourteenth Amendment to the Constitution of the United States, in the light of which these constitutions are to be considered, became a part of the organic law of the land on the 28th of July, 1868. Its first section reads as follows:—

All persons born or naturalized in the United States, and

\* Journal of the Convention, p. 12.

† *Ibid.*, p. 731.

subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Thirteenth Amendment, abolishing slavery, had been declared ratified on the 18th of December, 1865; and on the 30th of March, 1870, the Fifteenth Amendment became a part of our Constitution, in the following words:—

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

Let us now review, in the light of these fundamental and controlling provisions of the Federal Constitution, the new suffrage requirements of these seven Southern States. In each of them, we may say at the outset, the franchise was in any event limited to male citizens of the United States of the age of twenty-one years and upwards, idiots and insane persons and those convicted of any of certain enumerated crimes being expressly excluded; and in each of them, excepting Maryland, a residence of at least two years in the State and one year in the county was also prescribed.

And first as to *Mississippi*.

The new constitution of Mississippi was proclaimed, as we have seen, on Nov. 1, 1890. Certain stated qualifications for the right of suffrage were required up to Jan. 1, 1902,—a period of more than twelve years,—with added qualifications after that date.

Prior to Jan. 1, 1902, the requirements were: (1) registration under the laws thereafter to be enacted by the legislature, such registration being specifically declared in the constitution of 1890 to be "an essential and necessary qualification to vote at any and all elections"; and (2) payment, prior to February 1 of the year in which the vote is offered, of all taxes



due from the voter, including poll-taxes, for the two preceding years.

After Jan. 1, 1902, in addition to meeting the above requirements, the would-be voter must either (1) be able to read any section of the constitution of the State or, if he cannot read, then (2) "be able to understand the same when read to him or give a reasonable interpretation thereof." This is the so-called *understanding clause*.

The statutes passed in amplification of these constitutional requirements placed the conduct of elections in each election district in the hands of three so-called "Managers of Election," all of whom were not to be of the same political party *if* suitable persons of different political parties could be had in the district. The statute further provided that such managers "shall be judges of the qualifications of electors and may examine, on oath, any person duly registered and offering to vote, touching his qualifications as an elector."\* Under an impartial administration of the law this would be a salutary provision; and, in considering the constitutionality of a measure, its due administration must be presumed. One cannot fail, however, to be impressed with the opportunity here offered for an abuse by the election managers of the discretion thus reposed in them. An arbitrary determination by them on the very day of election that a negro, though he had successfully run the gauntlet of the registration laws, was nevertheless *not* qualified as an elector, would mean, of course, the rejection of his ballot;† and the negro would then be put to the choice of instituting and conducting a protracted litigation in the hostile courts of the State (for the Federal courts would be without jurisdiction), beset with the greatest difficulties of proof, or, in the alternative, of an acquiescence in the determination that he was not qualified; and it is not difficult to imagine which his choice would be.

It was, however, chiefly through the anticipated inability of the negro to meet the requirements of the *registration laws* that it was believed his disfranchisement would be accomplished. And yet his inability to meet those requirements may never be held to be due to his color or to his race or to any previous condition of servitude, but rather to his mental

\* Code of Mississippi, §§ 3643, 3644.

† See *Brew v. State*, 71 Miss. 6 (1893).

deformity—speaking generally and of the great mass of negroes—and to his roving habits. The fact that the registration laws were such as to place judicial power in the registration officials, so that by a partisan and unfair exercise of the discretion reposed in them they could admit numbers of whites to registration who were equally disqualified with the mass of the negroes and at the same time exclude individual negroes who were in fact amply qualified to register, cannot be urged against the constitutionality of the registration laws.

The general scheme of these laws in Mississippi is as follows:—

The applicant for registration must first make oath to his qualifications as an elector in respect of age and residence, swearing also (1) that he has not been disqualified from voting by conviction of any of the enumerated crimes; (2) that he will truthfully answer all questions put to him concerning his antecedents, so far as they relate to his right to vote; and (3) that he will faithfully support the Constitutions of the United States and of the State of Mississippi. He must then show that he has paid all taxes for the two preceding years, after which he is required to submit to examination by the registrar as to his qualifications for registration. If, upon such examination, the registrar "adjudges" him qualified, his name is placed upon the registration book, together with a statement of sundry matters for purposes of identification, one of which is the applicant's qualification under the understanding clause of the constitution. A column is also provided for his signature.

In case the application be denied, then the applicant may within five days take a written appeal to the Board of County Election Commissioners, where the case is to be heard *de novo*. Either side may offer oral proof, and power is given to the board to subpoena witnesses, etc. The decision of the board is final as to all questions of *fact*; but an appeal may be taken on the law, as stated below, to the Circuit Court of the county, and thence to the Supreme Court of the State.

A check upon the action of the registrar in improperly *granting* an application for registration is found in the provision of the statute which permits any elector of the county to appeal to the Board of Commissioners from *any* decision

granting an application for registration. The notice of appeal, however, in such case must first be served upon the person whose right to register is attacked, and must state the grounds of the appeal.

One further provision of the election law of Mississippi which, while unassailable on constitutional grounds, is pregnant with suggestion to the managers of election,—should they be unscrupulously inclined,—is that which declares that, should the poll-books containing the list for any district of the registered electors, or the ballot-boxes, not arrive at the polling-place in time for the election, the election shall nevertheless be held. In such cases the managers are required to provide some suitable substitute for the ballot-boxes, and to conform as nearly as possible to the law “in the reception and disposition of the official ballots.” Beyond this the statute is silent. It leaves to those whom it has elsewhere declared to be the judges of the qualifications of electors, notwithstanding those electors may all have been duly registered, the responsibility of deciding what to do in the absence of the poll-books. Where race prejudice runs high, it is not difficult to imagine what would be done.

So much for the suffrage article of the new constitution and statute law of Mississippi.

They were submitted to the consideration of the Supreme Court of the United States in 1898 in the case of *Williams v. Mississippi*, 170 U. S. 213; and it was there unanimously held, Justice McKenna writing for the court, that they were *not* violative of the Federal compact.

In *South Carolina*, under the new constitution which went into operation Dec. 31, 1895, the qualifications for the suffrage are: (1) payment, at least six months before election, of any poll-tax then due and unpaid; and (2) registration.

The requirements for registration varied according to whether application be made before or after the 1st of January, 1898.

Up to Jan. 1, 1898,—a period of three years after the adoption of the constitution,—the test was either (1) ability to read any section of the State constitution when submitted to the applicant by the registration officials or (2) ability to “understand and explain” any section when read by such

officials. All persons registered prior to Jan. 1, 1898, are declared by the constitution to be electors for life, except, of course, as they may subsequently become disqualified by loss of reason, conviction of crime, etc.

After Jan. 1, 1898, the qualification was either (1) ability both to read and to write any section of the State constitution as submitted to the applicant by the registration officials or (2) the ownership of real or personal property in the State of South Carolina of the assessed valuation of \$300 or more, and the payment of all taxes collectible thereon during the previous year.

An applicant denied registration may appeal within ten days after announcement of the decision to the Court of Common Pleas, where the hearing, as in Mississippi, shall be *de novo*; and from the decision of the Common Pleas on such appeal the applicant, or any qualified elector of the county, may within ten days from the filing of such decision appeal on exceptions to the Supreme Court of the State.

Power is also given to the Board of Registration not less than ten days before an election to "revise" the list of registered voters and, without notice to any one, to erase therefrom the names of all who have died, become disqualified, or moved from the county, or who may have been "illegally or fraudulently registered." A right of appeal to the Common Pleas is given to any elector who deems himself injured by any action of the board under this section.

In Mississippi, I neglected to state, the same power is given to the Board of County Commissioners, with the added power to erase from the registration books, also without notice, the names of all persons "erroneously thereon." A wide discretion!

The requirements for the right of suffrage in *Louisiana* are: (1) registration upon the personal application of the voter; and (2) payment of a poll-tax of one dollar on or before the 31st of December of each year for the two preceding years. Furthermore, the applicant must (3) be able to read and write, and demonstrate his ability to do so when he applies for registration by making, under oath, a written application therefor, either in English or in his mother tongue,—

a seemingly curious provision to us of the North,—which shall contain the essential facts showing him entitled to register and to vote. This application, to use the words of the constitution, “shall be entirely written, dated and signed by him in the presence of the registration officer,” without assistance or suggestion from any person or any memorandum whatsoever, except the form of application prescribed. In case the applicant cannot write because of some *physical disability*, the registration officer is permitted to write the application for him, but even then at his dictation.

But, if the applicant is unable to read or write because of illiteracy, he must show that he is the owner of real or personal property situated in the State of Louisiana of the assessed valuation of \$300 or more, upon which all taxes are paid. There is no so-called *understanding clause* in Louisiana.

But even yet the simple-minded Creole and Acadian population of South-western Louisiana, of whom we heard on the floor of the convention, would be excluded—and doubtless other whites, too—unless a further alternative set of requirements was prescribed; and so we find, for the first time in these Southern constitutions, the so-called *grandfather clause* among the requirements for registration. This provided that no person who had lived for five years or more in the State and registered prior to Sept. 1, 1898,—the constitution went into effect on May 12, 1898,—should be put to the educational or to the property test as a prerequisite to his right to register, *provided* he or his father or his grandfather was entitled to vote in any part of the United States on the first day of January, 1867, or at any time prior thereto. The reason of the selection of such date is obvious. Prior to the adoption of the Fourteenth Amendment in 1868 the suffrage was limited throughout the United States to *white* male citizens, etc.; and opportunity for a negro to escape the educational or the property test must be forestalled.

Rights of appeal from the denial of applications for registration, etc., were given, as in Mississippi and South Carolina.

In *North Carolina* the requirements of the new suffrage article were, similarly, payment of the poll-tax for the preceding year and registration; and it was through the consti-

tutional and statutory provisions as to registration that the ballot was controlled. In the constitution an educational qualification is prescribed in that ability to read and write any section of the Constitution, in the English language, is made the primary test. But the general applicability of such provision is at once whittled away in order to save from disfranchisement the mass of illiterate white mountaineers in the western part of the State; and the *grandfather clause* is added as a proviso, in almost the same language as in the constitution of Louisiana. Jan. 1, 1867, is here, too, selected as the qualifying date; but a much longer time for registration under this clause is given to the illiterate whites of North Carolina than was given to their illiterate brothers of Louisiana. In the latter State but little over three months were accorded; while in North Carolina registration is open under the grandfather clause to Dec. 1, 1908,—a period of more than six years.

By the statutes passed in amplification of the new suffrage article, an applicant for registration—except under the grandfather clause—must be sworn and submit to examination as to his identity and qualifications; and, if the registrar be in doubt as to the applicant's right to register, he may require other evidence "satisfactory to him" as to the applicant's qualifications. If, however, the application be made under the grandfather clause, the applicant's oath is sufficient proof of his qualification; and it is made unlawful for the registrar even to inquire whether the applicant can read or write.

On the Saturday preceding an election the registration rolls are thrown open, and any elector may then object to any name appearing on the rolls. The registrar must forthwith mark such name "challenged," and appoint a time and place "before the election day" (which, be it remembered, is but three days distant, and one of those days a Sunday) when he and the judges of election shall hear and decide the objection. Personal notice of the challenge is to be given to the voter objected to, if possible; but, if for *any* cause personal notice cannot be given, the statute says it shall be sufficient to leave a copy of the notice at the voter's residence. On the hearing of the objection, the registrar is to erase the name of the voter from the books, if he be found "not duly qualified."

The statutory right of challenging a vote on election day

is also pregnant with possibilities. In case of such a challenge the judges and registrar are directed by the statute to explain to the would-be voter the qualifications of an elector, and then to examine him as to those qualifications. If, still unterrified, the voter insists he is qualified, he must prove his identity and his continued residence in the precinct since his name was placed upon the registration list, not by his own oath, but by that of at least one elector; and then the registrar or judges are to tender him an oath in a form prescribed. If by that time he is so terrified or confused as to decline to take the oath, his vote shall be rejected; but, if he still persists and will take the oath, his vote shall be received, "*provided*," the framers of the statute enacted, "that after such oath or affirmation shall have been taken the registrar and judges may nevertheless refuse to permit such person to vote, unless they be satisfied that he is a legal voter." False swearing is punishable as perjury.

In *Maryland* it was sought to accomplish the desired change in the right of suffrage by legislative fiat rather than by constitutional amendment.

The existing constitution of the State, in force since 1867,—and still in force,—directed the legislature to provide for a uniform registration of the names of all voters possessing those qualifications which the constitution prescribed, and then declared that such registration should be *conclusive* evidence of the right of the person so registered to vote. The clause on qualifications provided that *every* male citizen of the United States who was of the age of twenty-one years and upwards, and had been a resident of the State for one year and of the city or county for six months, and was not disqualified by conviction for crime, etc., *should be entitled to vote* at all elections, if registered. Construing these provisions as a delegation to the legislature of the power to impose any qualification for the right of suffrage which its fancy might dictate, the legislature, at an extraordinary session held in 1901, covertly introduced an educational test, which might or might not be applied according as the Board of Registry saw fit. The general scheme of the new registration law is as follows: All registration is to be in public, and any voter has the right

to challenge any applicant. If challenged, the applicant is to be carefully questioned by the Board of Registry; and, in case his application is denied, he may "make and sign an application in writing, under oath," in a form prescribed by the statute. The statute seems to contain no provision for an appeal to the courts by an applicant who cannot write.

Another provision of the statute, along the same general lines, permits *any* voter to go before the Board of Registry and make oath that he believes any specified person on the list is not a qualified voter. A list of all names so complained against, together with the names of those on the rolls whom any of the board suspects to be not qualified, is to be prepared some four weeks prior to election, except that, if the board knows that any one against whom a complaint is lodged, as above, is a qualified voter, it may omit such name from the list.

Notice is then to be given by mail, three weeks before election, to each person on the list, requiring him to show cause, at a time and place stated, why his name should not be erased from the rolls; and upon the return day of such notice those who appear are required to "make and sign an affidavit" in a form prescribed by the statute. No provision seems to be made by statute for any one who cannot write. After the affidavit is made and signed, the suspect is subjected to an examination by the board, which has full power to examine witnesses under oath and generally to make such inquiry as it deems proper. If a majority of the board is of the opinion that the suspect is disqualified, his name is to be stricken from the rolls. And then comes a curious provision of the statute. During the last hour of the sitting of the board, on the return of the notices sent out, if any person so notified has not yet appeared, his name shall be stricken from the rolls "*unless* a majority of the board are satisfied *of their own knowledge*, or upon competent testimony, that such person is entitled to have his name retained."

A general right of appeal to the courts is also given by the statute.

Another innovation in the Maryland statute is the provision that whoever moves from or vacates his actual dwelling-place or habitation in the State of Maryland, and takes up



another outside the State, is conclusively presumed to have intended to abandon his legal residence in the State and to have surrendered his right to registration as a voter, unless not later than ten days after such removal he appears in person before the clerk of the court and makes affidavit that he nevertheless has a fixed and definite intention of returning to the State at least six months prior to the next election; and, if he fails so to return, it must be conclusively presumed that he has abandoned his declared intention, and his name must be stricken from the registration rolls.\*

If a registration officer suspects that an applicant for registration has lost his residence by reason of removal from the State, he may question him closely, and even require the truth of his answers to be corroborated by independent evidence; and, if still not satisfied, he must refuse the application.

Still another innovation is the provision which denies the right of registration to any one moving into the State of Maryland after the 21st of March, 1901, until the expiration of one year—not after such person shall have moved into the State, but one year after he shall have caused to be entered, in a record book of the county into which he shall have moved, his name, residence, age, and occupation, and a declaration of his intention to become a citizen and resident of the State.

That the primary intent of the statute was to prescribe an educational qualification for the right of registration, and therefore for the right of suffrage, there can be no doubt. The law of 1896, which was repealed by the law of 1901, provided that, if *at the time of registration* a voter should declare to the officials, under oath, that he was unable to read or write, or was physically unable to mark his ballot, he could, at the time of *election*, receive the assistance of the poll clerks in the preparation of his ballot. The law of 1901, however, makes no provision for any such declaration at the time of *registration*, and limits the right of a voter to assistance by the poll clerks to those cases where the voter at the time of election declares, under oath, that "by reason of blindness or physical disability"—note the limitation—he is unable to mark his ballot. And even then the assistance which may be given him is confined to a marking of the ballot as the voter directs, the voter being required to name each of the candi-

dates for whom he would vote, and not being permitted to indicate them generally by party designation. The clerks are expressly forbidden to read the ballots to the voter or to make any suggestion as to how they should be marked. And, after all this is done, the vote must still be rejected unless a majority of the judges of election are satisfied as to the truth of the alleged disability. The statute is explicit that no voter shall receive any assistance in the marking of his ballot unless he falls within the class of those who are disabled by *blindness* or *physical disability*.

This portion of the act has been twice presented to the Court of Appeals of the State of Maryland for construction, but in neither case would the court consider the constitutionality of the act. The cases were decided on other grounds.\*

The new *Alabama* constitution became effective Nov. 28, 1901. Registration and the payment, prior to February 1 next preceding the election, of all poll-taxes then due were the qualifications for suffrage. Here, too, an arbitrary date was set, Dec. 20, 1902 (a little more than a year after the constitution went into effect), as the dividing-point between the two sets of requirements for registration.

Prior to that date a citizen who was qualified as to age and residence, and not otherwise disqualified, was entitled to register, if he came within any one of three specified classes:—

The first class was the so-called *soldier class*, which here makes its first appearance in these Southern constitutions. This class comprises "all who have honorably served in the land or naval forces of the United States in the war of 1812, or in the war with Mexico, or in any war with the Indians, or in the war between the States, or in the war with Spain, or who honorably served in the land or naval forces of the Confederate States, or of the State of Alabama in the war between the States";

The second class comprised the lawful descendants of those who served in any of said wars or in the war of the American Revolution; and

The third class consisted of those persons of good character "who understand the duties and obligations of citizenship under a republican form of government."

\* *Summerson v. Schilling*, 94 Md. 582, 591.

This last is the so-called *understanding clause*, though in somewhat different language from that employed in Mississippi and in South Carolina. In those two States the test was ability to understand any section of the State constitution, when read to the applicant, *or* give a reasonable interpretation thereof.

The three classifications mentioned were available to the voters of the State only up to Dec. 20, 1902,—a little more than a year after the constitution went into effect; and all persons thus registered were declared to be electors for life, unless subsequently disqualified for cause. No provision was made for registration during the next ten days; but *after* Jan. 1, 1903, one duly qualified as to age and residence is entitled to register,

(1) If he can read and write any article of the United States Constitution in the English language, and has worked or been employed in some regular occupation for the greater part of the preceding year; *or*

(2) If he is the owner, or is the husband of the owner, of forty acres of land upon which he resides, or of property within the State of Alabama of the assessed valuation of at least \$300, upon which all taxes for the preceding year shall have been paid.

Those who can read and write, but are physically unable to work; and those who cannot read and write, not because of illiteracy, but because of some physical disability,—are nevertheless entitled to register, if they be otherwise qualified as to age and residence.

The usual power is given to the board of registrars to examine all applicants for registration under oath, and any one to whom registration is denied is given a right of appeal to the courts within thirty days, and without the necessity of his furnishing security for costs. Upon such appeal the matter is to be heard *de novo* and before a jury, and the trial court is limited in its charge to a mere statement of what constitute the qualifications prescribed by law that entitle an applicant to become an elector at the time he applies for registration.

The usual power is also given to the registration officials to strike from the lists the names of those who have died or

become disqualified, but provision is made for a trial by jury on the demand of any person whose name it is proposed to strike from such lists.

The qualifications for suffrage in *Virginia*, the last of the States we are to consider, are the usual registration and payment of all poll-taxes due.

The requirement for registration, *prior to Jan. 1, 1904*, of an applicant who is qualified as to age and residence, is:—

(1) That he shall have served "in time of war in the army or navy of the United States, of the Confederate States, or of any State of the United States or of the Confederate States," which is a more concisely expressed *soldier clause* than that of Alabama; *or*

(2) That he shall be the son—not descendant generally, but *son*—of any such person; *or*

(3) That he shall own property upon which State taxes for the preceding year of at least \$1 shall have been paid; *or*

(4) That he shall be able to read any section of the State constitution, when submitted to him by the registration officers, *and* give a reasonable explanation of the same (in the *understanding clause* of the other constitutions we have considered, the words used were "or give a reasonable interpretation," etc.); *or*, if he be unable to read, that he be able to understand *and* give a reasonable explanation, etc., when the section is read to him by such officers.

Persons enrolled under any of these requirements may not be required to register again.

*After Jan. 1, 1904*, the requirements for registration are threefold:—

(1) Payment of all poll-taxes for the three preceding years;

(2) A written application for registration, made by the applicant in the presence of the registration officers in his own handwriting, and without any aid, suggestion, or memorandum, in which the applicant shall state his "name, age, date and place of birth, residence and occupation at the time and for the two years next preceding, and whether he has previously voted, and, if so, the state, county, and precinct in which he voted last" (this requirement, it would seem, may be dispensed with in the case of those *physically* unable to write); *and*

(3) An affidavit of the applicant that he will truthfully answer all questions put to him by the registration officers touching his qualifications as an elector.

The provision as to the payment of poll-taxes, whether as a qualification for the suffrage or for registration, is declared by the constitution not to apply to those who fought on either side during the "late war between the States."

Another distinction made between those who register before and those who register after Jan. 1, 1904, is that, while the former may be aided at the polls in the preparation of their ballots by such officers of election as they may designate, the latter must, unless *physically* unable to do so, prepare and deposit their ballots without any aid.

Power to prescribe a property qualification not exceeding \$250, as a prerequisite for voting in county, city, or town elections, is vested in the legislature, together with a discretion to make such exemptions from the operation of the property qualification as shall not be in conflict with the Constitution of the United States.

And, finally, the usual right of appeal to the courts, to be taken within ten days, is given to any one denied registration.

Such are the main provisions of these new constitutions and legislative enactments, conceded by their framers and supporters to be but so many attempts to accomplish the disfranchisement of the negro by lawful means.

In considering their constitutionality under the Fourteenth and Fifteenth Amendments, we must bear in mind what is sometimes overlooked in discussion, namely, that the right of suffrage is *not* an absolute right inherent in the citizen as such, but is rather a *privilege* conferred upon the citizen by the sovereign power of his State.

As Mr. Pomeroy says in his work on Constitutional Law,\* the States have supreme control over this privilege; and taking it away or, what is the same thing, refusing to confer it does not impair any *right*. Such statement, however, is not quite correct, in so far as the right or privilege to vote for members of Congress and for presidential electors is concerned. That privilege is conferred upon the citizen, *not*

\* Section 535.

by the sovereign power of his State, but by the sovereign power of the United States.\*

With this modification in mind we gather the true rule from the words of Justice Somerville in *Washington v. The State*, 75 Ala. 582 (1884):—

There can be no such thing [he says] as a vested right in the elective franchise as against the State, or people, from which it was *ex gratia* derived; for, under our form of civil polity, all political power is inherent in the people, and they have . . . at all times an inalienable right to change their form of government in such manner as they may deem expedient.

Prior to the adoption of the Fourteenth and Fifteenth Amendments there was no restriction of any kind upon the power of a State to limit in any way it saw fit and for any reason that it chose the right of suffrage among its citizens; and the only existing restriction to-day (provided, of course, the restriction be not so arbitrary and unfair as to amount to a denial of the equal protection of the laws) is that imposed by the Fifteenth Amendment, that

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Unless, then, under recognized rules of statutory construction the constitutions and enactments we are considering may be held to work a denial or abridgment of the negro's right to vote *because* of his race, color, or previous condition of servitude, the concern of the Federal government in those constitutions and enactments and in the disfranchisement they have accomplished is limited (unless the equality clause of the Fourteenth Amendment be violated) to a corresponding reduction of the representation of those States in Congress and in the Electoral College.

One of the many difficulties that have checked the zeal of those who would attack these measures in the Federal courts is the constitutional limitation upon the jurisdiction of those courts. Generally speaking, the Federal courts can entertain jurisdiction of a cause only when the parties thereto are

\* *Mason v. Missouri*, 179 U. S. 328, 335 (1900); *United States v. Reese*, 92 U. S. 214 (1875).

of diverse citizenship, and this is hardly apt to be the case where a citizen of a State assumes the initiative against the organic law under which he lives or where a so-called Federal question is involved in the litigation,—that is, a question which calls for an interpretation or construction of some provision of the Constitution or of the statute law of the United States.

When a case is taken up from the highest court of a State to the Supreme Court of the United States on the claim that jurisdiction attaches because a Federal question is involved, he who takes it up must first satisfy the court that the decision complained of not only was not decided, but cannot be sustained, except through an interpretation or construction of the constitutional or statutory provision involved.

It is this strict construction by the court of its jurisdictional limitations that has brought disaster to many well-meant but over-sanguine efforts to secure a decision by that tribunal upon some piece of State legislation or some constitutional provision which was believed to be obnoxious to the Federal compact.

An interesting instance of this is the recent effort made in the name of one Giles, a negro, to secure a determination by the Supreme Court upon the question of the validity of the suffrage provisions of the new Alabama constitution.

Giles's first step was to file in the Circuit Court of the United States, in equity, a bill against the registrars of election of his county, charging that the suffrage provisions of the new constitution of Alabama were repugnant to the Fourteenth and Fifteenth Amendments, and in their language and meaning, as well as by their operation and administration, deprived him and his race of the equal protection of the law and of their right to vote, and for no reason other than their race, color, and previous condition of servitude. He charged that the defendants had refused to register him and some five thousand others of his race, all of whom were duly qualified, simply because of their race, color, or previous condition of servitude, and that by such refusal he and they were about to be deprived of their right to vote for State and Federal officers in the election to take place on Nov. 4, 1902, while all the white men in Alabama were registered and given certificates, and would

all be allowed to vote in said election. He annexed to his bill voluminous extracts from the proceedings of the constitutional convention, the speeches of the president and delegates, and a copy of the suffrage and other articles of the constitution as adopted, and prayed that such suffrage provisions be declared null and void, that the defendants, as registration officers, be restrained from enforcing them and from making and filing any list of electors not containing his name and those of his race who were qualified, and, generally, from doing anything that would deprive him and his race of their right to vote in the approaching election because of their race, color, or previous condition of servitude.

The defendants demurred to the bill, setting up want of jurisdiction in the Federal courts and want of equity; and their demurrer was sustained. On appeal to the Supreme Court such ruling was affirmed, Justice Holmes writing the prevailing opinion, which was concurred in by Chief Justice Fuller and by Justices White, Peckham, and McKenna, while Justices Brewer and Harlan wrote dissenting opinions, and Justice Brown also dissented, though without opinion.

The question before the court and discussed in the opinions was the technical one of jurisdiction. After assuming that some manifest objections were resolved in favor of the plaintiff, Justice Holmes said:\*

The difficulties which we cannot overcome are two, and the first is this: The plaintiff alleges that the whole registration scheme of the Alabama constitution is a fraud upon the Constitution of the United States, and asks us to declare it void. . . . If we accept the plaintiff's allegations for the purposes of his case, he cannot complain. We must accept or reject them. It is impossible simply to shut our eyes, put the plaintiff on the lists, be they honest or fraudulent, and leave the determination of the fundamental question for the future. . . . We express no opinion as to the alleged fact of their (the sections) unconstitutionality beyond saying that we are not willing to assume that they are valid in the face of the allegations and main object of the bill,—*for the purpose* of granting the relief which it was necessary to pray in order that that object should be secured.

The other difficulty is of a different sort, and strikingly reinforces the argument that equity cannot undertake now, any more than it has in the past, to enforce political rights.

\* *Giles v. Harris*, 189 U. S. 475, 486.



. . . In determining whether a court of equity can take jurisdiction, one of the first questions is, What can it do to enforce any order that it may make? This is alleged to be a conspiracy of a State, although the State is not and could not be made a party to the bill. The Circuit Court has no constitutional power to control its (the State's) action by any direct means. And, if we leave the State out of consideration, the court has as little practical power to deal with the people of the State in a body. The bill imports that the great mass of the white population intends to keep the blacks from voting. . . . Unless we are prepared to supervise the voting in that State by officers of the court, it seems to us that all that the plaintiff could get from equity would be an empty form.

Defeated in equity, and beyond doubt properly so, the same negro, Giles, then commenced in the State courts of Alabama an action at common law against the same registrars of his county to recover \$5,000 damages resulting from their alleged wrongful refusal to register him under the new constitution and laws of the State. He charged in his complaint that this refusal was based upon no other ground than that he was a negro and of African descent, and that the provisions of the State constitution relating to suffrage were unconstitutional and void because in conflict with the Fourteenth and Fifteenth Amendments to the Federal Constitution. His complaint was voluminous, and contained the various provisions of the constitution, statutes, and speeches which he had set forth in his bill in equity. The defendants again demurred, and their demurrer was sustained; and, upon plaintiff declining to amend or plead further, his case was dismissed. He thereupon appealed to the Supreme Court of Alabama, where the judgment of dismissal was affirmed in a tersely expressed opinion:\*

If we accept (without deciding) as correct [said the court] the insistence laid in appellant's brief that section 186 of Article VIII. of the Constitution is void because repugnant to the Fourteenth and Fifteenth Amendments of the Constitution of the United States, then the defendants were wholly without authority to register the plaintiff as a voter, and their refusal to do so cannot be made the predicate for recovery of damages against them.

On the other hand, if that section is the source of their authority, the jurisdiction is expressly conferred by it upon

\* *Giles v. Teasley*, 136 Ala. 164 (1903).

the defendants as a board of registrars to determine the qualifications of plaintiff as an elector and of his right to register as a voter. For their judicial determination that plaintiff did not possess the requisite qualifications of an elector, and for their judicial act of refusing to register him, predicated upon that determination, they are not liable.

At about the same time that Giles commenced his action for damages, he applied for a writ of mandamus against the same defendants, and set forth in his petition substantially all the facts that he had alleged in his complaint. His prayer was that the suffrage provisions of the State constitution be declared void because repugnant to the Fourteenth and Fifteenth Amendments, and that a writ of mandamus issue commanding the defendants, as the board of registrars of his county, to register him as a qualified voter of the State, etc.

Defendants demurred also to this petition, and again their demurrer was sustained. The Supreme Court of the State said, in affirming such decision:\*

As the sections of the constitution assailed created the board of registrars, fixed their tenure of office and defined and prescribed their duties, if they are stricken down on account of being unconstitutional, it is entirely clear that the board would have no existence and no duties to perform.

So, then, taking the case as made by the petition, and without deciding the constitutional question attempted to be raised or intimating anything as to the correctness of the contention on that question, there would be no board to perform the duty sought to be compelled by the writ, and no duty imposed of which the petitioner can avail himself in this proceeding, to say nothing of his right to be registered.

Writs of error were then sued out in each case, and the two were heard together in the Supreme Court of the United States, which on February 23 of the current year dismissed both writs for want of jurisdiction. The opinion of the court† was written by Justice Day, and was concurred in by all except Justice McKenna, who concurred in the result, and by Justice Harlan, who dissented. Justice Day said:—

When the jurisdiction depends, as in the present cases, upon a right, privilege, or immunity under the Constitution of the United States specially set up and denied in the State

\* *Giles v. Tensley*, 136 Ala. 228 (1903).

† *Giles v. Tensley*, 193 U. S. 146 (1904).

court, certain propositions . . . are well settled, among others, . . . it must appear from the record, by clear and necessary intendment, that the Federal question was directly involved so that the State court could not have given judgment without deciding it.\* It is equally well settled that, if the decision of a State court rests on an independent ground,—one which does not necessarily include a determination of the Federal right claimed,—or upon a ground broad enough to sustain it without deciding the Federal question raised, this court has no jurisdiction to review the judgment of the State court.

He then observed that the Federal right for which the plaintiff evidently sought protection was that secured by the Fifteenth Amendment, and said:—

But in the present case the State court has not sustained the right of the State to thus abridge the constitutional rights of the plaintiff. It has planted its decision upon a ground independent of the alleged State action seeking to nullify the force and effect of the constitutional amendments protecting the right of suffrage. The first ground of sustaining the demurrer is, in effect, that, conceding the allegations of the petition to be true, and the registrars to have been appointed and qualified under a constitution which has for its purpose to prevent negroes from voting and to exclude them from registration for that purpose, no damage has been suffered by the plaintiff, because no refusal to register by a board thus constituted in defiance of the Federal Constitution could have the effect to disqualify a legal voter, otherwise entitled to exercise the elective franchise. In such a decision, no right, immunity, or privilege, the creation of Federal authority, has been set up by the plaintiff in error and denied in such wise as to give this court the right to review the State court decision.

This view renders it unnecessary to consider whether, where a proper case was made for the denial of the right of suffrage, it would be a defence for the election officers to say that they were acting in a judicial capacity *where the denial of the right was solely because of the race, color, or previous condition of servitude of the plaintiff.*†

In the ground first stated we are of opinion that the State court decided the case for reasons independent of the Federal right claimed, and hence its action is not reviewable here.

Commenting upon the decision of the Supreme Court of Alabama in the mandamus proceedings, Justice Day holds that the grounds stated in the opinion of that court were ade-

\* *Sayward v. Denny*, 158 U. S. 180.

† The Italics are mine.

quate to sustain the decision, wholly independent of the rights set up by the plaintiff as secured to him by the constitutional amendments for his protection, and in conclusion says:—

In reaching the conclusion that the present writs of error must be dismissed, the court is not unmindful of the gravity of the statements of the complainant charging violation of a constitutional amendment which is a part of the supreme law of the land; but the right of this court to review the decisions of the highest court of a State has long been well settled, and is circumscribed by the rules established by law. We are of opinion that plaintiffs in error have not brought the cases within the statute giving to this court the right of review.

I have quoted thus at length from the opinions in these cases to make clear to my hearers the difficulties that beset the path of him who would seek a decision by the Supreme Court of the United States upon the legality of the suffrage provisions of the Southern constitutions. Time and space do not permit a further consideration, in the light of the decisions of that court, of the sundry questions of constitutional law and of practice involved; and prudence forbids even the hazarding of an opinion as to how far that tribunal will deem itself bound by the hitherto recognized limitations upon Federal authority, should the question be finally brought before it in such shape as to require a decision.

In a very recent case, still fresh in the minds of us all, the court, by the barest majority, has strained well-nigh to the snapping-point, to put it conservatively, the constitutional limitations upon the right of Federal interference;\* and it is the part of wisdom to rest content with a statement of the law as it has been, and as it is, without attempting to forecast the future.

In considering the questions now before us, it must be borne in mind that equality of protection or operation does not mean "indiscriminate operation on persons merely as such, but on persons according to their relations."† Justice Field pointedly said in *County of Mobile v. Kimball*, 102 U. S. 691, 704, that the Supreme Court was not a harbor of refuge from ill-advised, unequal, and oppressive State legislation, unless some clear constitutional right were invaded; and in the *Ma-*

\* *The Northern Securities Case*, 193 U. S. 197.

† *Magoun v. Illinois Trust Co.*, 170 U. S. 283, 293 (1897).

*gown* case, from which I have just quoted, Justice McKenna said:—

The State may distinguish, select, and classify objects of legislation, and necessarily this power must have a wide range of discretion. It is not without limitation, of course. . . . [But] there is no precise application of the rule of reasonableness of classification, and the rule of equality permits many practical inequalities. And necessarily so. In a classification for governmental purposes there cannot be an exact exclusion or inclusion of persons and things.

And in another case Justice Brewer said,\*—

In all cases it must appear not only that a classification has been made [in order to remove a statute beyond the reach of the equality clause of the Fourteenth Amendment], but also that it is one based upon some reasonable ground,—some difference which bears a just and proper relation to the attempted classification,—and is not a mere arbitrary selection.

It was charged in a case before the Supreme Court† that a municipal ordinance of the city of San Francisco, though apparently designed for sanitary purposes, had in reality been adopted through a feeling of race antipathy and hatred against the Chinese, and for the sole purpose of compelling many of the Chinese to abandon their laundries. And it concededly had such effect. Nevertheless, the ordinance was sustained as beyond the power of Federal interference.

There is nothing, in the language of the ordinance [said Justice Field, who wrote for the court], or in the record of its enactment, which in any respect tends to sustain this allegation. And the rule is general, with reference to the enactments of all legislative bodies, that the courts cannot inquire into the motives of the legislators in passing them, except as they may be disclosed on the face of the acts, or inferable from their operation, considered with reference to the condition of the country and existing legislation. The motives of the legislators, considered as the purposes they had in view, will always be presumed to be to accomplish that which follows as the natural and reasonable effect of their enactment. Their motives, considered as the moral inducements for their votes, will vary with the different members of the legislative

\* *Gulf, etc., Ry. v. Ellis*, 165 U. S. 150, 165 (1896).

† *Soon Hing v. Crowley*, 113 U. S. 703 (1884).

body. The diverse character of such motives, and the impossibility of penetrating into the hearts of men and ascertaining the truth, precludes all such inquiries as impracticable and futile.

And in the present case, even if the motives of the supervisors were as alleged, the ordinance would not be thereby changed from a legitimate police regulation, unless in its enforcement it is made to operate only against the class mentioned; and of this there is no pretence.

And now in conclusion—for I have necessarily eliminated much that bears upon the subject—may I venture to express the opinion that under the cases as they stand to-day the suffrage articles of these new constitutions do not violate the guarantee of the Fifteenth Amendment. They certainly do not in their terms, and, if impartially administered, do not in result. Whether the arbitrary and ridiculous classifications prescribed in connection with the requirements for registration—I mean the “soldier clause” and the “grandfather clause”—may be held to be an attempted exercise of a sovereign power which was denied to the States by the equality clause of the Fourteenth Amendment, is a more perplexing question. It is not clear that they do *not* violate such provision of the fundamental law, and it certainly is not clear that they do.

The “understanding clause” is the most susceptible of abuse, because it leaves to the judgment of untrained and not necessarily educated officials of the State the determination as to what does or does not constitute an understanding, to use the words of the statute, “of the duties and obligations of citizenship under a republican form of government.” The standards which may honestly be adopted by the registration officials may be as numerous and as various as there are counties in the State; and yet with the *quality* of the administration of an otherwise valid State law the Federal government has no concern, unless, possibly, such administration be charged and proved to be part and parcel of a State conspiracy. The “understanding clause” vests in these registration officers *discretion*, in the legal sense of that word; and it is not unlike those familiar instances of State legislation where discretion is lodged in public officers or boards to grant or withhold licenses for the sale of spirituous liquors, etc., according to

whether the applicant be or be not a "fit person" for the exercise of the privilege sought. In a case where the distinction between the grant of a discretion which calls for a consideration of the circumstances of each application, on the one hand, and of a mere arbitrary power without standard, guidance, or restraint, on the other hand, was considered,\* Justice Matthews said:—

The *fact* of fitness is submitted to the judgment of the officer, and calls for the exercise of a discretion of a judicial nature.

The "understanding clause," I should therefore say, cannot be condemned as obnoxious to the Fourteenth Amendment without a radical extension, under the fiat power of the Supreme Court, of the hitherto recognized limitations upon the right of Federal interference; and that the Court would so use its absolute power is not to be presumed.

\* *Yick Wo v. Hopkins*, 118 U. S. 356 (1885).

#### 4. FRANCES POWER COBBE: A LIFE DEVOTED TO THE PROMOTION OF SOCIAL SCIENCE.

BY F. B. SANBORN, HONORARY PRESIDENT OF THE ASSOCIATION.

When in the infancy of this Association we were looking about for Corresponding Members abroad, your Secretary, as I was then (Corresponding Secretary), turned naturally to such persons as he knew, by correspondence or otherwise, to be vitally interested in some of the thousand problems of social science. Among these were two ladies resident in England and intimate friends of each other,—Miss Mary Carpenter, of Bristol, and Miss Frances Power Cobbe, of London. They had once lived together at Bristol, the home of Miss Carpenter, working for the reformation of girls and for the general reformation of penal establishments and penal law; but now Miss Cobbe had withdrawn, an invalid, and, when she returned from years spent in the milder climates of Southern Europe and Asia, she took up her abode in London, and became a journalist and magazine writer. Originally, however, Miss Cobbe was Irish, born of a Tory family near Dublin, in whose line was a High Church Archbishop, and whose politics I have understood to be of the most conservative sort. Greatly to her father's disgust, Frances, who early took to reading in the ancestral library, became interested in philosophy and religion,—the latter not of the Anglican sort,—and presently she appeared as an author of the *Intuitive*, or what was here in New England called the *Transcendentalist*, school. Her first book, "*An Essay on Intuitive Morals, being an Attempt to popularize Ethical Science*," appeared in 1855 at London, when the author was thirty-two, and was reprinted at Boston in 1859, chiefly through the instrumentality of Theodore Parker, of whom she had become a correspondent in 1848, and by whose death-bed she sat in Florence, in May, 1860. It would have been reprinted earlier but for the financial troubles here in 1857. When it did come out, I was teaching advanced pupils in Concord, and at once put a class into Miss Cobbe's book, which was in the true line of descent from



Kant, and at variance with the materialism of England at that time and since.

This being so, Miss Cobbe, upon the death of her father, whose housekeeper she had been since her mother's death, had turned her thoughts and energies to practical ethics, and joined Miss Carpenter (a person very unlike herself) in unselfish labors for the good of others. Few persons have done more with the pen, although, like so many others, Miss Cobbe carried her philanthropies (if that is the right word to use of a person who crusaded against the vivisection of animals) into extremes. This was the more noticeable because she was a woman of society, of real Irish wit, and by no means exclusive in her choice of acquaintances and continuance in friendship. She was especially given to form friendships with foreigners, particularly Americans and Italians, but not very fond of France or the French. Her comments on our countrymen and countrywomen were frankly made, and, with their abounding good-nature, had a little that air of the English aristocrat who, with all the courtesy in the world, esteems himself specially chosen by Providence to pass judgment on other nations, whether invited to sit on the jury or not. I do not mean that superiority which she herself laughed at when she first met Matthew Arnold, and, noting his manner, said,—

We are all familiar with a certain tone of lofty superiority common to Roman Catholics and Anglicans, in dealing with Dissenters of all classes,—the tone, no doubt, in which the priests of On talked of Moses, when he led the Israelitish schism in the wilderness.

No, the air I mention is rather one of benevolent impartiality natural to the Upper Class of the Universe, in which truth, however bitter, is offered as a medicine, and the medical man in attendance is expected to see it duly administered, whatever the patient's private distaste may be. I have always admired the nonchalant way in which Miss Cobbe took the support or the opposition of those who felt any interest whatever in her studies and practices in social science. The one exception to this, so far as I know, was her intolerance on the subject of vivisection. She allowed this dispute, in which

both sides were right and both wrong, to break up old friendships, and stand in the way of that ease in forming acquaintances, so marked in her early and middle life. The abuses of vivisection, which will always make it a legitimate topic for restrictive legislation, were so great in England that they concealed from Miss Cobbe the proper uses of that method of scientific inquiry. It is within bounds to say that no topic of social science was foreign to Miss Cobbe, and that her personal acquaintance included almost all those in the countries she visited who were eminent in its studies or in the practice of the manifold arts with which social science has to do. She never visited America, as her friend Miss Carpenter once did, but rather too late in life to receive the full impression which our community, so unlike that of England, will convey to the foreigner of insight, who comes unimpregnated with traditional opinions. Especially was Miss Cobbe's intimacy great among women interested in social problems. Florence Nightingale, Mrs. Stowe, Lady Byron, Mrs. Kemble, the Mills, Taylors, Brights, Brownings, and so many more, were known to her and she to them. She wrote many books, aided many good causes, and published innumerable newspaper and magazine articles; but her most interesting book is that Autobiography which she published ten years ago, closing it ten years before her own death, lately announced, at the age of eighty-one. She was born at Newbridge in December, 1822.

I would advise all persons, who may wish to know thoroughly that spirit and those manners which have carried the well-mingled ruling class of England and Ireland through their remarkable career of conquest and government, during the past four centuries, to read this autobiography; for there they will find the whole thing in a nutshell. Strong qualities handed down from father to son, the instinct and the habit of command, courage invincible in the face of the most appalling odds, gracious manners clothing an inflexible purpose, keen wit, ready sympathy, except with natures and designs alien to their own, and a power of simple, strong affection, regardless of the means by which its objects are promoted,—all these were as conspicuous in this youngest daughter of an Irish squire as in any statesman or admiral or great commander whose name shines in the long record of England's unprinci-

pled domination of subject lands, and steady uplifting of her own people by liberal legislation. Miss Cobbe numbered among her ancestors not only an Archbishop of Dublin, but his immediate ancestor (grandfather) who sat in Richard Cromwell's Parliament, and another who sat in judgment on Charles Stuart. Her father, though for all the rest of his days a county magnate living quietly on his broad acres at Newbridge, twelve miles from Dublin, had been in his youth an officer under his Irish contemporary, Sir Arthur Wellesley, in India, and distinguished himself as a cavalry cornet on that day, illustrative of the martial career of Wellington, when the young general,

Far away,  
Against the myriads of Assaye  
Clashed with his fiery few, and won.

Almost dying of fever in India, he contrived to get back to Ireland, and there spent the rest of his days, educating his children, improving his land and his tenants, and turning his own daughter out of his house when he found she had adopted the religious views of her American correspondent, Theodore Parker. To these she adhered through a long life, although otherwise holding to the conservative opinions of her family in national politics. Her father recalled her, and she presided over his great establishment till his death in 1857. She was what we call in New England "a good housekeeper," although she would have looked with some scorn on this appellation, as being rather below the dignity of a born lady. But she was also, by her own almost unaided efforts in the old Archbishop's library at Newbridge, a very learned person, surprising everybody in her first book by uncommon erudition in regions of research far enough from the usual range of young ladies in Ireland, half a century ago. It was published anonymously and long passed as the work of a man,—very naturally; for who would suppose a woman could have gathered so many authorities in philosophy and theology, and reasoned so logically about them? Finally, the bigoted London *Guardian* (Nov. 21, 1855) printed what Miss Cobbe long afterwards called "this delightful paragraph":—

The author professes great admiration for Theodore Parker and Francis Newman, but his own pages are not disfigured by

the arrogance of the one or the shallow levity of the other. He writes gravely, not defiantly, as befits a man giving utterance to thoughts which he knows will generally be regarded as impious.

There was indeed the same sort of courage in this adventurous author, charging with her array of texts and principles against the batteries of established orthodoxy in England, that her father displayed, when, as Cornet Cobbe of the 19th Light Dragoons, he snatched the falling colors of his regiment from the dying hand of his sergeant, and carried them up to the muzzles of the hostile artillery. And I may add that her American leader in the path of Theism, Parker, was in his day, years before the founding of our society, the great fountain in New England of what we now call Social Science,—indeed, a whole Social Science Congress in himself, with his sermons against War, Slavery, Drunkenness, dropsical Wealth, every form of vice, and every shade of disregard for the laws of morals and political economy.

In her long conflict with the same evils in England which Parker combated in our newer country, Miss Cobbe was saved from despair and over-enthusiasm by that beautiful prophylactic, Irish humor, which shines forth in so many chapters of her autobiography, and is so dismally lacking in the more recent book of Herbert Spencer. She tells the story, with glee, of her great-grandmother, Lady Betty Cobbe, who dosed the sick in the whole circle of the Archbishop's estates, one day, meeting one of her beneficiaries on the road, and asking his name. "Ah, then, me lady, don't you remember me? Why, I'm the husband of the woman your ladyship gave the medicine to, and she died the next day,—long life to your ladyship!" Another of her stories was that of the child at Drumcar, elaborately instructed by Lady Elisabeth McClintock in the depravity of high priests and others of the tribe of Judah, who thus unravelled it upon examination in public: "What was the sin of the Pharisees, dear child?" "Ating camels, my lady." This was a sin which Miss Cobbe was continually denouncing, in the class to which she belonged, although the sinners (and she herself occasionally) carefully strained out the gnat that had fallen into their turtle-soup.

Her interest in Americans, first aroused by her sympathy

with Parker in his religious reformation, was heightened by meeting his attached parishioners, the Apthorps and Miss Sarah Hunt, in Rome at the Christmas season of 1857. Solitary and ill in her room at the Hotel Europa, she was startled by a card from strangers:—

It bore names unknown to me, "Mr. and Mrs. Robert Apthorp," and with the singular message, "Was I the Miss Cobbe who had corresponded with Theodore Parker in America?" My first impression was one of alarm. "What! more trouble about my heresies still?" It was, however, quite a different matter. My visitors were a gentleman (a *real* American gentleman) and his wife, with two ladies, who were all among Parker's intimate friends in America, and to whom he had showed my letters. They came to hold out to me the right hands of fellowship; and friends indeed we became, in such thorough sort that, after seven-and-thirty years, I am corresponding with dear Mrs. Apthorp still. She and her sister nursed me through my illness, and thus my solitude in Rome came to an end.

This was said in 1894; and only within the past year has Mrs. Apthorp died, for many years an invalid. Her son is that excellent musical critic so well known in Boston. My own acquaintance with Miss Cobbe was only by correspondence, and that ceased long since. At my request she wrote for the New York *Independent* a good account of the Irish Convict System, which forty years ago was the most advanced form of prison discipline in the world, now excelled by our own Reformatory System at Elmira, Concord, Mansfield (Ohio) and elsewhere. To this and to the kindred work of reforming vicious women and caring for incurables Miss Cobbe and Miss Carpenter devoted many arduous years, before the horrors of vivisection too much engrossed her sensitive soul. I have thought it due to both that this mention should be made of them in Boston, where both had so many friends, now, alas! like themselves, mostly gone over to the majority.

## II. DEPARTMENT OF SOCIAL ECONOMY.

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At the opening session of the Department of Social Economy, Rev. Josiah Strong, D.D., president of the Institute for Social Service, New York City, gave some account of the purposes and methods of that organization.

As a preliminary, he outlined the chief results of the industrial revolution as the solution of the problem of production, along with compilation of the problem of distribution; the redistribution of population and its profoundly important consequences; and the geographical separation of the family. The American Institute of Social Service was created for the express purpose of taking advantage of the new opportunity now open to the race,—the opportunity of evolving a new civilization founded on the yield of all the arts and sciences of our modern times.

Its object, as President Roosevelt says, is "to enable men to adapt social relations to the changed conditions created by the industrial revolution both in this and in other countries." Its functions are: first, to gather facts of all kinds bearing upon industrial and social welfare; second, to interpret those facts by ascertaining, so far as is possible, their causes and their effects; third, to disseminate that knowledge for the education of public opinion throughout the United States and the world.

It has a dozen departments. It is constantly sending information all over the country and to foreign countries. We give such information when a corporation desires to improve the condition of its employees, and we do it by putting that corporation in possession of what the great captains of industry are doing in various parts of the world. If a city desires to improve its municipal housekeeping, we show by means of lantern slides, etc., what has been done in other great cities. When a church is struggling to adapt itself to new conditions, or a charitable philanthropic society seeks to improve its methods, we supply the experience of other churches and

societies. In this way the institute is able to raise the efficiency of thousands of institutions. We are all the while trying to inculcate Christian principles,—to establish and strengthen those relations which draw men closer together.

## 1. RESULTS OF ARBITRATION UNDER THE COAL STRIKE COMMISSION.

ABSTRACT OF REMARKS BY HON. CARROLL D. WRIGHT, LL.D.,  
UNITED STATES COMMISSIONER OF LABOR.

The Anthracite Coal Strike Commission, finding that it could not recommend a joint agreement between the operators and their employees fixing all the conditions of employment and providing for a conciliation board, made such a board obligatory as a matter of award, the fourth award providing as follows:—

That any difficulty or disagreement arising under this award either as to its interpretation or application or in any way growing out of the relations of the employers and employed, which cannot be settled or adjusted by consultation between the superintendent or manager of the mine or mines and the miner or miners directly interested, or is of a scope too large to be so settled or adjusted, shall be referred to a permanent joint committee, to be called a board of conciliation, to consist of six persons, appointed as hereinafter provided. That is to say, if there shall be a division of the whole region into three districts, in each of which there shall exist an organization representing a majority of the nine workers of such district, one of said board of conciliation shall be appointed by each of said organizations, and three other persons shall be appointed by the operators, the operators in each of said districts appointing one person.

The board of conciliation thus constituted shall take up and consider any question referred to it as aforesaid, hearing both parties to the controversy, and such evidence as may be laid before it by either party; and any award made by a majority of such board of conciliation shall be final and binding on all parties. If, however, the said board is unable to decide any question submitted or point related thereto, that question or point shall be referred to an umpire, to be appointed, at the request of said board, by one of the circuit judges of the third judicial circuit of the United States, whose decision shall be final and binding in the premises.

The membership of said board shall at all times be kept complete, either the operators' or miners' organizations having the right, at any time when a controversy is not pending, to change their representation thereon.

At all hearings before said board the parties may be



represented by such person or persons as they may respectively select.

No suspension of work shall take place, by lockout or strike, pending the adjudication of any matter so taken up for adjustment.

It will be noticed that under this award all difficulties or disagreements arising under it, or relating to its interpretation or application, may be brought before the conciliation board, and that it also provides that difficulties or disagreements in any way growing out of the relations of employers and employed, which cannot be settled or adjusted by consultation, etc., may also be brought before the board. This gives a very wide range to the matters to be considered by the board of conciliation, should they be brought before it. This board of conciliation is to exist for three years from the time the award of the commission went into effect. So it has had about one year's experience. It should be borne in mind, as intimated, that this board takes the place of a trade agreement, and that all parties must abide by its decisions or the decisions of the umpire appointed in accordance with the provisions of the award.

Mr. John Mitchell, the president of the United Mine Workers of America, has stated recently in a public address that this board is working with fair satisfaction, and that there is, on the whole, a state of industrial peace and harmony in the anthracite coal regions. There are, in round numbers, about 150,000 people affected by the award of the Coal Strike Commission. One would expect, therefore, that a great variety of complaints would be brought before the board,—complaints regarding not only important matters, but trivial matters involving or affecting individuals or small groups of individuals. The three members of the board representing the operators have informed me without hesitation that they believe that the miners are trying sincerely, and to the best of their ability, to abide by the award; while the representatives of the miners, on their side, have given an emphatic assurance that the operators are doing all they can, and sincerely, to carry out the provisions of the award of the commission. Such statements ought to set at rest the accounts appearing from time to time in the press that there is great

discontent, that the work of the Coal Strike Commission is repudiated, and that there is great indignation at some of the decisions of the umpire.

As a matter of fact, the total number of grievances presented during the year is only 116. This, for such a vast interest and with such a large number of employees involved, is decidedly satisfactory. The board of conciliation has acted upon 71 grievances: it has sustained 17, and rejected 19. 17 of the cases have been withdrawn by the petitioners, and 18 grievances have been adjusted locally without the action of the board. Some of the cases that have been acted upon are very important, the most important, perhaps, relating to the payment of the increase awarded by the Coal Strike Commission. The question arose as to whether this payment should be on net or gross earnings. It was settled by the board itself, without reference to the umpire.

The figures quoted as to cases sustained, not sustained, withdrawn, etc., present the most encouraging feature of the work of the conciliation board. Very few new cases are now being brought before the board. The remainder of the 116 are not important, but relate very largely to the claim of some individual that the award works unjustly to him personally or to some minor matters of adjustments, etc. The board has had many sittings, and serves without pay as a board, the general expenses being paid jointly by the operators and the miners' unions. As but few new cases are being brought before the board, it is reasonable to suppose that for the two years during which the award is still to run it will not be called upon to adjust many grievances.

The decisions of the umpire, which have been almost entirely against the claims of the employees, because they have run counter largely to the provisions of the awards of the Coal Strike Commission in some respect, have been accepted and acquiesced in, not without some protest, but absolutely without any outbreak or any disposition to violate them.

This record indicates without question that, after two years more of experience under the arbitration provided by the Coal Strike Commission, the parties in the anthracite regions will become more fully acquainted, will get their petty grievances adjusted, and thus be in a condition at the expiration

of the award, two years hence, to make a joint agreement that shall comprehend most of the vexatious questions which have in the past disturbed the peace and the prosperity of the coal country.

## 2. CONTENT IN WORK.

BY CHARLES W. ELIOT, PRESIDENT OF HARVARD UNIVERSITY.

The winning of satisfaction and content in daily work is the most fundamental of all objects for an industrial democracy. Unless this satisfaction and content can be habitually won on an immense scale, the hopes and ideals of democracy cannot be realized. Therefore, joy in work should be the all-pervading subject of the industrial discussion; for it is at once motive, guide, and goal. It is only in the less skillful employments of mankind, which are also the commonest, that any question arises concerning the possibility of satisfaction and content in daily work. All the nobler employments give much pleasure. Every professional man, every business man, and indeed every person in whose occupation there is free competitive play for intelligence and judgment takes pleasure or joy or satisfaction in his daily work; and his interest in his work does not depend principally on the amount of pay he receives for it. He gets from it a large satisfaction independent of and in addition to its pecuniary returns. The real question, then, is whether the satisfactions of the higher employments can be measurably obtained in the lower. On the right solution of this problem depends the whole future of the industrial democracy; for there can be no public happiness without content and satisfaction from the daily work of the masses of mankind. Let us, then, inquire what the sources of satisfaction in work are and must be.

The first source is the pleasure that the natural, healthy man takes in exertion,—in using his bodily and mental powers. There is, undoubtedly, a real pleasure in the mere use and exercise of one's powers. All the active sports illustrate this fact. In many of them the exertion is great and prolonged, and one might almost say that in any one sport the pleasure or satisfaction was proportionate to the exertion. In rowing, cycling, "hare and hounds," and the competitive games of ball, including all the varieties of tennis, the effort of both mind and body is strenuous: in hunting and fishing the effort

is not only strenuous, but is apt to be very prolonged; and yet nobody doubts that these sports are enjoyable, and that it is the effort which is in large measure the source of the interest and satisfaction. What is true of the manly sports is also true of manly labor.

The next source of genuine satisfaction lies in achievement; that is, in doing and accomplishing something worth while. The satisfaction in having done something well is universal, and comprehends absolutely all kinds of employment. It is not at all necessary that the achievement should be a great one or that its quality should be fine or artistic. There is satisfaction in digging a ditch and seeing the water of a stagnant pond or meadow drain off through it. I lately saw a group of laborers dig up an elm-tree thirty-five feet high, wrap its roots, get it on wheels, carry it a quarter of a mile, and plant it again in a big hole which they had previously dug with much hard work. The job was intelligently and carefully done, and that large tree is now leafing out, though no earth was brought with its roots. Every man of the group that did the digging looks at that tree with hearty satisfaction. Its safe transplanting was an achievement. Competitive achievement is more pleasurable than achievement without competition, as all the sports prove, as well as all the competitive industries. Competition needs liberty and hope and a determination towards progress. Therefore, competitive achievement is a precious reward. Even the defeated are glad to have been in the race.

Thirdly, the co-operation of a few or of many persons in achieving—as, for instance, in successfully making a valuable product—is a legitimate source of constant satisfaction, particularly if the co-operation have an element of rhythm or harmony. The industries, like the sports, afford innumerable instances of the satisfaction which naturally springs from such co-operative effort. This is one source of the pleasure a sympathetic boat's crew take in their laborious and somewhat monotonous rowing. This is one source of the satisfaction with which all hands on deck will pull together on the braces or the main-sheet. In a higher form of intense and difficult co-operation this is the source of pleasure in the hard work of an orchestra or a great chorus. Human nature

responds with joy to co-operative effort towards any productive or creative end.

Again, the exercise of intelligence, judgment, or skill, in any labor, gives satisfaction. Putting one's mind into one's work, so that attention is keen and every effort well directed, is a prime source of joy in work, no matter what the work may be. It is the fashion, particularly in labor unions, to complain that in many kinds of work called "manual" there is no joy. That can only be the case in labor of a kind which precludes the exercise of the mental faculties, because joy in the exercise of those faculties is absolutely inevitable. I have been unable to discover any modern employments, even those called the lowest, in which there is not large play for intelligence, alertness, and good judgment. I have never yet observed men seriously and honestly at work who did not seem to me to have ample opportunity for the exercise of both intelligence and judgment. Of course, one often sees in these days men nominally at work who are not using their minds or their wills any more than they can help; but it is not their occupation which deprives them of the satisfaction of working with intelligence and judgment. It is their characters, their personal quality. I have lately received a considerable number of letters and newspaper cuttings calling my attention to specific employments which the writers supposed to be destitute of this source of joy, and I have been urgently advised to make trial of some of these employments. Every one of them, without exception, seems to me to provide amply for the satisfaction now under discussion. The last comment of this nature, received this week, related to the occupation of a motorman on an electric car. This strenuous, open-air occupation seems to me to afford a perfect illustration of the high satisfaction or content that may be derived from an employment which at first sight seems to need muscle rather than mind. The motorman must, indeed, be strong in body; but he must be much more. He must be always observant and on the alert. He must be steady, cool, collected, and ready to meet with instant decision a new condition or an unexpected event. He handles a fine machine for which he is responsible, and he must be incessantly watchful for the safety of his machine and of the people in his car and on the

street. There is much for him to learn about his machine and the right management of it. If that occupation, under those conditions and calling for those qualities, cannot yield the fit man satisfaction and content, there is no human occupation that can yield content.

In many occupations another element which proves a source of frequent satisfaction is risk, or danger. This is a characteristic of all the manly sports and of many of the fundamental industries, like mining, sailing the ocean, handling domestic animals, quarrying, and lumbering. The danger must be visible and open, not hidden or mysterious; and it must be avoidable by the exercise of foresight, courage, and skill. Probably it is the successful avoidance of the danger which gives the pleasure, although there is an unquestionable pleasure in looking back at some perils which were not altogether avoided, though survived. The natural, human pleasure in adventure is a combination of the pleasure in novelty and the pleasure in risk. The satisfaction in having successfully encountered danger is for most men a durable one. It is experienced when the danger is fresh; and it is always looked back upon with satisfaction, even though extreme labor and hardship accompanied the successful encounter. Any occupation that combines avoidable risks with uncertain productiveness has in it two large elements of interest, and therefore of possible satisfaction. Thus the miner's occupation in which it is uncertain how much coal or ore a given expenditure of labor in drilling and blasting will produce, has these two elements of satisfaction. Every trading operation has in it the interest of adventure.

Finally, those occupations which, like the building trades, present from day to day or from year to year new materials, processes, designs, and products,—and in these days what occupation does not offer many elements of novelty,—give to the life of the workman the interest of variety, with new things always to learn. The higher employments all offer a large variety from year to year, and even from week to week; but the lower employments, too, offer to ambitious and alert workmen a large variety of mental and bodily occupation. A middle-aged printer lately said to a friend of mine, "I have been thirty-five years in a printing-office, and still I learn some-

thing new about printing every day." Indeed, it has been characteristic of the last thirty years that all the main industries have been made over, root and branch.

The principal sources of satisfaction and content in daily work are, then, the active exercise of one's powers; achievement, or the getting well done something worth doing; harmonious co-operative effort; putting mind into work, or using judgment and skill; successfully encountering risk; making adventures; and mastering novelty and variety.

It is unquestionably easy to have all satisfaction in daily work destroyed by the imposition of conditions which make satisfaction impossible. If labor is pressed beyond the limits of strength and health, content in it is impossible. Any overwork destroys the physical basis of satisfaction in toil. If the hours of labor are exaggerated, so that reasonable time for meals, family life, recreation, and sleep, is not to be had, the due satisfaction in toil will not be realized. The conditions of modern urban life tend to develop in the American population an unreasonable haste and stress in both work and play. This haste and stress are quite as highly developed in the higher employments as in the lower; and, relatively to numbers, overwork now prevails in the higher employments more than in the lower, probably because there is more and keener pleasure in them, and they are therefore more liable to be pursued with an inordinate zeal.

For a hundred years there has been going on the substitution on an immense scale of manufactured, mechanical power and machinery for human muscle. The individual workman has therefore more directing work to do and less bodily labor to perform. In the modern quarry or mine a machine does the drilling. On a large vessel the sailors no longer hoist the sails or weigh the anchor; the halyards and the anchor-chain are wound up by a donkey engine, and the cargo is put in and taken out in the same manner. The laborer's function is more and more the function of directing and watching machines. His responsibility has become greater; his product, multiplied through the machine, is larger; and his need of sound judgment and intelligent decision has become more frequent and imperative. In short, his opportunities for the use of his mental faculties, as distinguished from his bod-



ily, have greatly multiplied; and hence his chances of winning daily satisfaction in the methods above described have greatly increased. Greater responsibility of course brings with it higher wages. Large-scale agriculture exhibits these changes in a striking way.

On the other hand, there are two tendencies in the organization of modern industries which are distinctly adverse to the winning of satisfaction in daily toil. The first is the minute division of labor, which in some industries reduces the variety, and therefore the interest, of the workman's occupation; and the second is the monotonous character of the work of tending, day after day and year after year, the same machine making the same product,—a monotony which is, however, comparatively rare, inasmuch as in most industries machines change frequently, and process and product more frequently still. In general, the variety in the labor of the individual workman has undoubtedly been diminished by the transfer of a large proportion of the population from farm work to factory work; for none of the ordinary occupations in mills or shops afford such variety as farm work affords. The work of the farm hand changes with the month and the season and with the hour of the day, whereas the weather, the seasons, and the time of day have comparatively small effect on the work of the mechanic, the operative, or the salesman. The trade unions are apt to object to piece-work because it develops in the work-people a rapid rate of work,—a rapidity from which the employer may, in the long run, gain an undeserved advantage. A much more sensible objection to piece-work would be its monotony and its tendency to substitute the good-enough for the excellent as its ideal. So far as piece-work becomes by repetition automatic, it reduces the satisfaction in the work itself to that of competitive achievement, and makes the wages earned thereby the chief reward.

If this description of the sources of joy in work is correct, it follows that several of the doctrines and policies of the trade unions are not intelligently directed towards increasing the well-being of workingmen. Let me try to enumerate some of the wrong directions in which the unions are pressing. In the first place, uniformity in the conditions and rewards of labor cannot be an end desirable in itself. The conditions

in different industries ought to differ with situation, climate, and the nature of the work. Not only should variety be welcome among the industries, but in any given industry variety should be welcome in different places and at different stages of development. The uniform wage, whether called minimum or maximum, is a direct interference with the real sources of satisfaction in daily work. Each individual workman should be free to do his best, both in quality and quantity, and so to win the natural satisfactions which come from the exercise of skill and judgment and from competitive achievement. The doctrine of minimizing the day's work through defining it by an inadequate number of bricks to be laid, ems to be set, lead joints to be wiped, or glass bottles to be blown, saps the very foundation of both efficiency and happiness in daily labor. That American labor remains as efficient as it does, even in many unionized trades whose trade agreements contain such unhappy limitations, proves that thousands of union men do not carry into practice this debilitating doctrine. Again, promising novelties in any industry should be welcomed, not hindered. Thirdly, competition, instead of being treated as an evil, should be welcomed as a source of liberty and progress, both for the individual workman and for the different classes and grades of workmen, competitive achievement affording a wholesome satisfaction in all occupations. Fourthly, the opportunity for zealous, hearty work, with excellence as its ideal, should be earnestly sought by the individual, because with this opportunity comes a keen satisfaction in all the higher employments, and in all the lower employments which, by development and improvement, can be brought to afford such opportunities. This would be the importation into common productive labor of the artist's motive and method.

Turning now to the employer's side of the industrial situation, and applying the principles herein laid down to his function, we find that the intelligent employer will best promote his own interests by so conducting his industry that the people who work in it can win natural and wholesome satisfactions in their daily toil. He will therefore take every precaution against overwork and for the preservation of the health and strength of his employees. He will try to diminish monot-

only and anxious stress, to secure liberty for the individual workman, and incite him to personal growth and progress, and to promote throughout his establishment competitive achievement, harmonious co-operation, the exercise of skill and judgment, and the introduction of novelty and variety.

For the carrying out of these purposes on both sides of the industrial strife the new tendency toward small industrial establishments scattered wherever mechanical power is electrically distributed is greatly to be welcomed, because such small establishments, when numerous, promote the independence both of small employers and of small groups of workmen, and easily unite in the pursuit of a common interest the employer and the employed, the capital and the labor.

Finally, happiness is a state of mind much more than a state of body, provided that the elementary necessities for the well-being of the body are at hand. The causes of the prevailing discontent are not in the circumstances of the people, but in the minds and hearts of the people themselves. Good will is only a state of feeling; yet, if good will could be established throughout any industrial organization, its economic effects would far transcend those obtained by collective bargaining and arbitration, useful as those methods of combat have proved to be. The industrial democracy needs to rectify its aims and its ideals, not confining its efforts to improving physical conditions or to raising wages. To promote this rectification, it seems to be essential that both employers and employed should come to understand much better than they do now the conditions under which satisfaction in daily toil becomes not only possible, but natural and inevitable.

### 3. SOME PRACTICAL PRINCIPLES OF WELFARE WORK.

BY CHARLES W. HUBBARD, ESQ., OF BOSTON, MASS., TREASURER  
OF THE LUDLOW MANUFACTURING ASSOCIATES.

From its beginning, history has recorded conflicts between those having intelligence, wealth, and political power, on the one hand, and the ignorant, poor, and unenfranchised, on the other. Owing to modern political conditions and the industrial evolution of the last century, the old historic strife is assuming a new form.

It is not now a question of winning political rights or educational advantages, but of properly using these in the endeavor to win a larger share in the rewards of modern industrial undertakings. In America we have also an entirely new problem, that of absorbing into a democracy millions of aliens, of various languages, traditions, and customs, and unacquainted with our institutions and the spirit in which they were founded. It may be claimed, and perhaps justly, that our institutions are no more endangered by this foreign element than by our American-born citizens, that the danger is not so much from ignorance as from want of principle.

The education given by our public schools has been depended upon to solve these problems; and in the assimilation of our foreign population our schools have been, and will be, the most important agent. Unfortunately, the majority of the children most needing it, at an early age, are taken out of school to enter the ranks of the workers; and it is necessary that their civic and economic education, begun in the school, should be continued, and that, as they become a part of the great industrial system, their training should be such as to enable them to improve their conditions of life, and should fit them to fulfil their duties to the family and to the State. To meet these new conditions, many of the largest employers are adopting a new method of dealing with their employees.

Strictly speaking, it is not a new method: it is as old as human nature. It is simply that of meeting others, and en-

couraging them to meet you, in a spirit of fair-mindedness, mutual confidence, and a desire to deal honorably with each other. It is new in the sense that large employers are beginning to realize that in bringing together large numbers of workers they assume certain moral responsibilities; that it is both their duty, and for their own business interest, that their relations with their employees should be friendly; and that the conditions under which their employees work and live should be such as to develop good citizens. The method is also new in the sense that it is to be applied, not in a theoretical, emotional, haphazard manner, but in a practical, hard-headed, scientific way, after a careful study of the conditions in each separate case. Numberless and discouraging failures have been made, and more will be made; but we are now getting on the right path, and can point out certain milestones and guide-posts and warn the unwary against certain quagmires and pitfalls.

In the first place there is a logical sequence in which this new method, or welfare work, should be undertaken. You cannot build the superstructure of a house before preparing its foundation, neither can you succeed in welfare work until you have conformed to certain principles of justice and civic duty.

First and foremost, the employer must pay the full rate of wages current in his line of business. In fact, if he is successful enough to attempt welfare work at all, he had best pay a little more than the current rate. He will thus secure the pick of the workers, and the difference between the best and the poorest is worth some advance in wages. But the main point is that by so doing he prevents his operatives from claiming that the cost of his welfare work is paid for out of their wages. The slightest suspicion of this will kill any welfare work he may undertake. Nevertheless, it is important that the employees make some contribution in the form of club dues or nominal charges for classes, in order that they may not feel that they are accepting charity. No welfare work can continue to be a success unless this is done to some extent almost from the start; but it must be a voluntary contribution by the workers, and not a forced one through acceptance of lower wages. No welfare work can be of permanent value unless those benefited make some personal contribution.

After wages, the next step forward is to look after the conditions under which the people work,—the heating, lighting, ventilation, cleanliness, and sanitation of the work-rooms, and possibly the introduction of luncheon and rest rooms for the use of those who do not return to their homes at noon. In a large city this may be all that can be done. The work-people may or may not realize that they are working under improper conditions; but in either case the employer should put his own premises in order before attempting anything else.

In the case of a successful business the rate of wages and the conditions of work depend entirely upon the employer. The employees may, by strikes or otherwise, bring pressure to bear on him; but they can of themselves do nothing. The successful employer is, therefore, simply performing a civic duty in maintaining fair wages and proper conditions for work.

Outside of the work-rooms the methods to be used depend upon the various conditions existing. In the case of a country mill, especially where the employer provides the dwellings, the housing problem is the most important. Perhaps the greatest influence in the life of a human being, man, woman, or child, is the home and its surroundings; and the employer of labor who provides the housing for hundreds or thousands of work-people has in his hands an untold power for good or evil. Given a good, healthy country location, good schools, good homes, and intelligent welfare work under a just, able, and conscientious management, and we need have no fear of the effect of foreign immigration or of serious disputes between capital and labor. I say serious disputes; for, while no amount of welfare work will surely guard against dissatisfaction, and in times of great industrial excitement possible strikes, still it is safe to say that, under just and benevolent conditions of employment, strikes will be of shorter duration and leave less bitter feeling.

There are several difficulties in taking up housing as a part of welfare work. The amount of capital required can only be furnished by fairly wealthy concerns, and the care of such property is an added burden upon the manager. No attempt has been made by manufacturers in the centres of large cities, but some successful attempts have been made by large concerns in the country or in the suburbs of cities.

As an illustration of what has been successfully accomplished, I give the following description of the building up of a village of some four hundred homes:—

With the growth of the business the first problem was the laying out of streets and the building of houses. The managers believed that they assumed a personal responsibility for the conditions under which their operatives work and live. They believed that environment has a great deal to do with character, and also that character is a factor in the efficiency of work-people. It has therefore been their aim to make the village an attractive place in which to live, and as far as possible to stimulate and assist their employees in matters of recreation, amusement, and educational development.

The original intention was to encourage the private ownership of cottages; but, after several sales were made, this was thought to be undesirable, except in case of small farms outside of the village. While the original purchaser might be satisfactory, the property was liable to pass into undesirable hands; and the enforcing of restrictions as to pig-pens, hen-yards, and other nuisances, might be resented. The cottages sold have been bought back as opportunity offered. Their rents are very low; and one of the purchasers, who resold, admitted that his interest, insurance, and repairs cost him more than the rent paid by his neighbors.

The first houses built were planned by architects more with reference to outside appearance than to meet the conditions required by the people who were to live in them; but of recent years the managers have made a careful study of plans, in order to provide, at the least possible cost, cottages which will meet all the requirements. Each cottage as built has been planned to remedy some defect in a previous plan, to incorporate some improvement suggested, or to lessen the cost of construction. The tenants have been asked for criticisms and suggestions, which have been acted upon, when approved. Each family has its own ideas. Some prefer stairs opening from the kitchen, some from a front hall; some wish the bathroom upstairs, others downstairs, etc.: hence a variety of plans, substantially of the same size and cost.

In planning these houses, the following considerations have been constantly in mind: economy of room; economy of

heating; economy of work in the care of house and children; the largest available amount of sunlight; economy of cost; and simple and well-proportioned outlines.

The first attempts at individual cottages were failures. The cottages were too expensive, and the tenants did not take proper care of them. A number of old-fashioned tenement houses were then built, some with eight tenements to a house. These proved even more unsatisfactory than the single cottages; and but few of them were built, another and successful attempt being made to introduce single houses. For several years no houses were built for more than two families, and these only for the sake of securing economy in building the smallest cottages. All of the modern houses have bath-rooms, and the larger ones furnaces, if desired. In order to economize village lots and also to give a choice in the selection of a home, two blocks of six and nine room houses have been built, and over the store and village restaurant eighteen (18) suites of steam-heated rooms, thus making possible a very simple form of housekeeping. At the present time these apartments are unpopular, apparently because it is the fashion in the village to have a separate cottage; and operatives who have already lived in flats in other villages refuse to accept even a better one than they have been accustomed to, and demand a cottage. It is hoped that in time this feeling will disappear, but it illustrates how local or class sentiment will often interfere with the best-laid plans of welfare work.

After good homes the most important need is that of rational amusement and healthy recreation. Development on these lines requires much closer co-operation between employer and employee; and here we first meet the difficulties of organization and management, which are the greatest obstacles to overcome. In America we are at once confronted with perhaps half a dozen different languages and national and religious prejudices, also local jealousies and personal dislikes. To harmonize all these different elements, to interest them in the proper forms of amusement and recreation, to organize them, to unobtrusively influence them in adopting the best methods and choosing the best officers, is a work requiring personal qualities of a high order. This personal work can rarely be given by the manager, either from lack of time or



of qualification; and it is now admitted that this work must be committed to a man or woman especially fitted therefor by personality and training. The name for this position, adopted by the Welfare Committee of the Civic Federation, is that of "Welfare Manager." In large works, especially where the conditions are complicated, the services of a competent welfare manager are absolutely necessary. His position should be that of manager, not for the employer, but the employees. He must win the confidence of the employees without losing that of the employer. The employer must expect mistakes to be made, but he must trust to time and experience and the tactful advice of the welfare manager. Very often, upon the organization of clubs or associations, the employees elect the welfare manager to some responsible position.

As regards buildings for the use of the employees, so much depends upon the location, the financial means, and other considerations that it is hard to set down any invariable rules. While in construction and appointments they should be refined and in good taste, they must be in harmony with the living conditions of those who are to use them: otherwise the people will not feel at home, and will stay away. The special requirements in each case should be carefully studied. If possible, the employees should feel some distinct need, and have some settled ideas as to what they want. What the experience of others has taught that they really need, and what they think they need, may not always coincide; and it is the duty of the welfare manager to harmonize these differences before deciding upon any permanent building. In the mean time it is well to use temporary quarters, if satisfactory ones can be obtained.

Before putting up a permanent building, it is wise to experiment in the next form of welfare work, that on educational lines. First, by encouraging a taste for good reading and by organizing classes in sewing, cooking, and other branches of household economy. Next,—and this applies especially to the men,—encouragement should be given in organizing classes in subjects that have a special bearing on their own work. In this educational branch of the work little success can be expected, except with the children and younger people. The welfare manager should be in close touch with the schools, and the school authorities should study to train children to meet

the conditions of life which the children have before them. Instruction in cooking and household economy, and, in the country, practical lessons in gardening, should be begun in the school. The interest thus acquired by the children can be developed still further by the welfare department, and will show results that can never be obtained by starting with adults. In a community thus trained from childhood there should be no difficulty in reviving the old-fashioned neighborhood exhibits of house and garden work. As an illustration of a partially successful attempt at welfare work, I give the following:—

About twenty years ago a room fitted with various small games was set apart as a smoking-room, but the attendance became so disorderly that after several forcible ejections the room was closed. Some years later, the general tone of the village having much improved, the attempt was again made. An unused part of a new mill was fitted with bowling alleys, pool tables, and other games.

At this time an organization was formed, which still exists. This association of the employees has its board of directors; and many of the heads of departments of the corporation have taken an active interest in the development of the association, thereby giving stability and continuity to the movement.

In 1898 the association was crowded out of its quarters, as the space was needed for manufacturing purposes; but on the completion of a new warehouse the whole upper floor was reserved and equipped for social rooms.

The association has been actively interested in athletics; and by always insisting upon clean sport and gentlemanly behavior it has been able to arrange games for its teams in a class above that occupied by teams from the neighboring towns. During the last year the corporation has laid out an athletic field, of about six acres, containing a quarter-mile running track and fields for baseball and football, all enclosed by a high board fence. This will be under the control of the Athletic Association.

In addition to the social rooms occupied by the association the corporation has for the past three years been able to furnish unoccupied mill floor space of over half an acre, heated and lighted. This is used in turn by the men, the women, and

the boys. Here the football and basket-ball teams have their winter practice, and here are held the Saturday evening dances.

The discipline of self-control and the demand for fair play in all sports has had an influence in every department of town and home life. Men learn to work together by co-operating in team work and in social activity, and success in athletics has fostered a pride in the village which will be a help in all other work.

An institute for women has been supported for the last three years. The old office building was remodelled and refitted to meet the needs of a social and industrial girls' club. Parlor, reading-room, office, class and game room, were suitably furnished.

Physical culture has been the most popular and perhaps most useful of its educational features. Notwithstanding hard work in the mills, interest in physical training has been intense among the young women, and naturally with beneficial results. The instruction has been in Swedish gymnastics, somewhat modified to make them popular and recreative, and, in games, principally basket-ball in winter and tennis in summer.

A beginning has been made in cooking, sewing, and kindred domestic classes.

The social features have been dances among the girls themselves and a reading and entertainment class, giving monthly entertainments.

In the spring of 1903 the girls organized as "The Girls' Institute Association," and have, through their board of directors, outlined and directed their own work and sport. It is hoped that with the assistance of a managing matron, paid by the corporation, this association may be able to organize and direct successful methods of providing amusement and education in hygiene and household economics. Notwithstanding the experiment of some years the managers are not prepared to erect a permanent institute building, nor do they know where one has been built and organized to successfully meet their conditions.

In the earlier days of the factory system it was not uncommon for the owner to be his own manager, to live among his work-people, and to be personally acquainted with many of them. Under these conditions the slightest discontent would

soon appear upon the surface, and could be adjusted by a frank talk. This sympathetic relationship can be partially restored by regular social gatherings, where the owners, managers, or even interested guests, can sit down with representatives of the workmen, and after dinner have a man-to-man talk over their cigars. Whether the subjects under discussion are general or refer to grievances, such talks cannot but result in a better mutual understanding and more harmonious relations, and may in time become of national value.

In a recent address, President Eliot has indorsed the claim of the intelligent workingmen for a voice in "the maintenance of the good discipline of the works." Under ordinary factory conditions such an attempt would result in disastrous failure; but the principle is right, and education in organization and administration should be a part of welfare work, not only for the employer's business success, but as a matter of national safety. For it is a most anomalous condition that millions of people should be governed in their daily industrial lives by a despotic oligarchy, and yet be expected to realize their duties and responsibilities as citizens of a great democracy. No community of work-people is fit to maintain the discipline of its works until it can organize and manage its social and educational activities, and here should begin the training in the working of democratic institutions. The necessity for this education is becoming more apparent to those interested in industrial welfare work. Many of the failures are now seen to have been the result of unaided and inefficient management by the operatives or of too great paternalism on the part of the employer. The problem before the welfare manager is to steer between these two dangers.

When the working-people have organized forms of amusement, recreation, and education, when they can administer them successfully year after year, when they have shown themselves so just and fair-minded that their employers are ready to give them a voice in the discipline of the works, then the work of the welfare manager is finished; and the working-people can consider the next step in industrial evolution, that of co-operative production under their own management. I do not suggest this as a practical possibility under ordinary factory conditions, but as a field for thought in which the imagination can wander.

To those who read accounts of welfare work, it may seem a most simple and easy matter to create a model community, build attractive houses, establish an institute with a trained welfare manager; and they think the rest will naturally follow. How little they realize how much time, work, tact, patience, perseverance, and charity will be required to bring about the desired result! They will encounter racial prejudices, local and personal jealousies. They will have to repress the inefficient would-be leaders, and draw out the efficient but reluctant ones. We sometimes read glowing accounts of welfare work and shortly afterwards hear of the establishment being the centre of a disastrous strike; later, possibly, that the whole attempt has been given up as a failure. Then it is safe to say that it was not conceived in the right spirit nor carried on in the right spirit, that it was either dictated by self-interest or executed in a spirit of condescending patronage; for, while such work, as already stated, may not prevent strikes, strikes certainly ought not to end honest and well-organized welfare work. Welfare work to be successful must, first, be free of any suspicion that it is designed to take the place of wages; second, it must not be too paternal or suggest that the recipient of its benefits does not know how to obtain them himself; third, the ideals aimed at must not be too far removed from actual conditions; fourth, at the outset, as far as possible, and continually more and more, the people should be encouraged to take part in the management.

It may be stated generally that experiments in welfare work have been judged too hastily to have been successes or to have been much greater successes than they really were. Many have been failures,—of these we rarely hear; and yet failures are often as instructive as successes, and a knowledge of the causes of previous failures would save many future ones. Successes are sometimes due entirely to some strong personality, and supply no lesson as regards methods: whereas failures must be the result of either method or personality.

In many instances so much is written about the welfare work carried on by certain concerns that it has the appearance of an advertising scheme; and, if the recipients of its benefits receive this impression, much, if not all, of its value is lost. I have been told by the secretary of the National Civic Federa-

tion that, in reply to inquiries regarding welfare work, some concerns have referred him to their advertising department.

Now the relations between employer and employee, even under the most favorable conditions, are somewhat delicate. The employee is suspicious. He is not likely to credit his employer with any high altruistic motives. Any welfare work on the part of the employer is looked upon as primarily something for his own benefit; and, if the employee sees such work continually described and praised in print, he is confirmed in this impression. Moreover, such advertisement is often offensive to the worker's sense of pride and independence. In the descriptions of wash-rooms and portable book-cases he sees an implication of certain deficiencies in his own home. The deficiencies may exist, but that does not salve his feelings. Would it not be well if published accounts of welfare work were made without disclosing names, except on special inquiry by those who wish to make a personal study? When it is impossible to keep accounts out of the papers, steer the reporters as best you can. Ask them to omit any mention or any pictures of the managing men. Get them to interview the work-people themselves, and write up an article from their point of view. It may not be as flattering to the employer; but it will be nearer the truth, and a vastly more valuable contribution to the literature of the subject.

The reforming value of welfare work will depend largely as to whether larger manufacturing concerns locate in the city or in the country. Formerly a country mill was supposed to pay lower wages, and in whole or in part to run economically by water power, while these gains were somewhat offset by higher freights. Of recent years the improvements in steam engineering have reduced the cost of transportation to the country mill and also the cost of power to the city mill; and the great influx of foreigners has tended to reduce the wages in cities as compared with the country, especially for unskilled workers.

With the cheapening of power, and the more extended use and greater effectiveness of machinery, the rate of wages and the efficiency of the laborer have become greater factors in the cost. I have already said that welfare work must presuppose the full scale of wages. I will now say, further, that experi-

ence has shown that in cases of undesirable work it tends to raise wages above the ordinary level.

There are certain forms of work that are unavoidably undesirable, but will be accepted by a workman brought up to them and accustomed to living in sordid surroundings. The same workman brought to a neat country home, and surrounded with refining influences, will in a short time revolt from the old form of work; and the employer will have to pay higher wages, invent some way of improving conditions, or give up that form of work.

I think it is safe to say that there are some forms of industry which would be injured by welfare work; but these are the exceptions, and will naturally be carried on in places where the surrounding conditions are in harmony. In saying this, I hope I do not in any way discourage such work. The rule is that welfare work benefits the employer as well as the employee. This is simply a case where "the exception proves the rule."

Apart from industries of this class, it is to be hoped that the tendency will be to favor country locations. The excitement of city life and the varied opportunities of work for the different members of the family offer strong attractions. On its amusement side, welfare work counteracts the dulness of the country; on its educational side, it develops appreciation of a healthy country life; and the two together create a workman more contented and intelligent than his city brother. The general adoption of welfare work will therefore tend to develop labor conditions favorable to country mills. It is also to be noted that in certain lines of business the tyranny of the city unions is driving manufacturers into the country.

An employer who uses one class of labor largely, say women and children, as in textile mills, often prefers to locate in a city or near some manufacturing industry employing men. By the introduction of country trolley lines the city is losing this advantage, as villages miles apart are now able to make an exchange in forms of labor.

If the country, with its trolleys and its welfare work, can offer more manufacturing advantages than the large cities, then we may look for a great improvement in the condition of our manufacturing population.

#### 4. "A SEVENTEEN-YEAR TRIAL OF PROFIT-SHARING."

BY SAMUEL CABOT, ESQ., CHEMICAL MANUFACTURER,  
BOSTON, MASS.

A plain tale is soon told, and I shall only steal a moment between the distinguished orators of the day to state a few facts acquired by actual trial of profit-sharing during the last seventeen years.

At a very early period in my business experience it appeared to me that the rewards ordinarily offered to the wage-earner were not such as to stimulate him to the best exertion nor foster in him the best and kindest feelings toward his employer.

Even to-day is it not true that in the great majority of cases the wage-earner's only stimulus is the desire to hold his job? In fact, is not the fear of discharge the only incentive to exertion in a large majority of cases?

Feeling as I did, and still do, that men can always be led more successfully than they can be driven, that Hope as leader and captain can accomplish more than Fear as tyrant and slave-driver, I set myself—ignorantly and crudely, to be sure, but earnestly—to try to better things. My method has grown to be essentially as follows:—

Every man who enters my employ is given the current rate of wages for similar work. If he desires also to participate in the profit-sharing, he is required to sign a paper in which he promises to do his work as quickly and carefully as possible, remembering that the greater the yield the larger the profits, and to give me sixty days' notice before leaving me.

On my part, I promise to divide at the expiration of each six months a certain fraction of the profits among the participants, strictly in proportion to the wages of each during that period. This sum in each case is divided into two equal parts, one of which is given in cash to the employee and the other is deposited in a savings-bank by me as his trustee.

This fund in the bank is in the nature of an insurance upon the life of the employee, and is given over with interest to his



executors, if he dies. It, however, does not come back into my hands. If he should, for instance, refuse to give me sixty days' notice on leaving me, although he had already received an equal amount in cash upon the promise to give me such notice, the money would not come back to me, but would simply be distributed among the other participants at the next division.

The same is true in case of his discharge for cause.

In case of sickness I am empowered at my discretion to draw upon his fund, though in temporary cases I always put sick men on half-pay for a considerable time without recourse to their fund. I also have the right to lend him money upon it to build a house. And now let me give you a few figures.

The system was begun a little over seventeen years ago, and has gone on uninterrupted up to the present time. The profit-sharers at the outset numbered 21, and to-day number 42. The total amount paid out by me has been \$40,464 during that period. Now the natural question which you all will ask, I think, is, Has this been a good bargain? I think you will all agree that in the ultimate analysis no bargain is a good bargain that is not profitable to both sides. Well, there will, I think, be no dispute that from the workman's point of view the bargain has been a good one, as he has a very considerable addition to his wages, which were as high as other labor of the same kind; and I may say that the average wages have steadily advanced as the efficiency and skill increased.

But now comes the question of my own investment. What means have I of knowing that the efficiency of the workmen has been increased to an amount equivalent to the \$40,464 which I have expended?

I will now give you a few more statistics which bear upon this question. Let me remind you that the same proportion of the profit was paid to the 21 men who first entered the agreement that is now paid to the 42 men who compose the present corps. But now note this very significant fact. While the first payments averaged about 10 per cent. upon the wages of each man, the last payment—which was larger than usual, to be sure—was exactly 21 3-10 per cent. of their wages.

It seems to me obvious that, if we can draw any inference from these facts, it is that, in as much as my profit compared

to the wages paid has increased, the efficiency of my workmen has improved.

But, above all, my own observation has convinced me that the *morale* of my employees is much superior to the average, and that they are more contented and willing by far than is usual in similar establishments. In fact, I am satisfied that this bargain has been a good bargain, a good one for both parties to it, and that the extra money I have laid out has been well and profitably invested.

I have, for obvious reasons, not laid any emphasis upon the philanthropic side of this enterprise, especially as I am sure it can be recommended to many, if not to most, manufacturers, and to their employees, purely upon its utilitarian advantages; but it is obvious that it stimulates both sobriety and thrift in workmen, and that it can be made to assist men of family to build homes for themselves, thus surrounding the factory with the homesteads of men who are interested in its success and that of the neighborhood.

From my seventeen years' experience, therefore, gentlemen, I can cordially recommend profit-sharing on this or a similar plan as of marked advantage to both employer and employed.

### III. DEPARTMENT OF HEALTH.

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#### I. ANIMAL EXPERIMENTATION.

BY HAROLD C. ERNST, M.D., OF BOSTON, MASS.

While thinking upon the subject I have been asked to treat to-day, I chanced upon the editorial comment of the *Outlook* on two papers it recently published concerning animal experimentation, or—as it is there called—Vivisection.

This comment seems so pertinent that I have ventured to transcribe a portion of it, for it is well to show at the outset that the position I may take in this matter has the very recent support of high ethical authority.

After speaking of the nature of the articles printed, the comment goes on to say:—

Man's relation to the lower orders of creation is accurately expressed in the account by the ancient prophet, who wrote the account of creation in the first chapter of Genesis: "And God blessed them, and God said unto them, Be fruitful and multiply, and replenish the earth, and subdue it; and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth." The animal creation is made for man, and he has a right and a duty to use it in whatever way will best minister to his highest life. He has not a right to treat animals cruelly, because all cruelty is wrong, and because cruelty does not minister to man's highest life, but dishonors and degrades and deteriorates him.

But with this definition, which is a definition and not a qualification, the fish of the sea and the fowl of the air and every living thing that moves upon the earth are subservient to man, and to be used by him. He has therefore a right to hunt and to fish, to slay and to eat, to use the horse to carry burdens and the dog to watch his flocks, the bee to hive his honey, the hens to lay eggs for him, the birds of the air to sing to him; and by the same right he may use them in vivisection if such use will minister to the health, the life, the welfare, of the human race.

There are two, and only two, questions involved in the

problem of vivisection. The first question is, Does it minister to the health, the life, the welfare, of the human race? To this there can be but one answer, the affirmative one. Then it ought to be practised under such conditions as will make its ministry to man the greatest, its pain to animals the least.

The second question is, What are these conditions? Vivisection before pupils in the grammar school, vivisection merely to gratify an idle or morbid curiosity, vivisection which has no health-giving end in view, vivisection which is regardless of and indifferent to the suffering of the animal is wrong, because it does not really minister to human well-being.

The vivisection of science, the vivisection which is really seeking to learn the secrets of life and death, vivisection pursued with serious purpose in order to alleviate human suffering and to prolong human life, vivisection carried on under conditions that reduce as far as possible the suffering of the animal operated upon, deserves commendation, not criticism; and its practice under these conditions belongs in the rank of the great modern philanthropic achievements. (*Outlook*, April 9, 1904, p. 812.)

This comment might easily be extended, so far as the good sought is concerned; for many results from animal experimentation have been secured that have tended to the marked benefit of the lower animals, and not to that of man.

We must take the universe as we find it. It is one in which life is constantly destroyed, doubtless for the benefit of other lives. As the highest type of the animal species, we at least need not be consciously cruel, but we should be blind to the teachings of Nature and invite race destruction if we did not seek to strengthen our species by endeavoring in every way to provide for it safeguards against the ravages of the lower types of life. (Editorial, *Boston Herald*, March 8, 1900.)

All other animals claim, without hesitation, the destruction of other species than their own for their own benefit. It is doubtful if any wild animal, at any time, ever dies a natural death—always one of violence or starvation.

Man does not at any time hesitate to claim his right over other animals to use them for pleasure, for decoration, for service, or for food. How, then, should he hesitate to use them—as in many heroic instances he has used himself—for the benefit of the human race?

That this latter has occurred in innumerable instances, the

history of every epidemic shows; and the moral heroism thus demonstrated is all the greater in that it does not receive recognition. One of my most-honored medical brothers—since passed on to his well-earned rest—once offered himself to me for a demonstration that, if attempted, he knew and I knew would result fatally. I have never passed through a more solemn or elevating scene than when this example of moral heroism was presented to me.

For the advance of knowledge and for the better relief of suffering, animal experimentation must go on. There is no alternative. Few of my hearers will take the position of one active opponent of the practice—that she would prefer to die rather than benefit by its results; and none, I hope, would repeat the blasphemous declaration that they would rather see a crucifixion than that it should go on.

The clear position of the loving parent is:—

Just in proportion as I love my own children, I am willing that certain guinea pigs should be experimented upon for their sakes. I am not willing that a single guinea pig should be tortured needlessly, but I want the man who takes the life of my child in hand to do no needless experimenting upon the child in order to save guinea pigs. (Rev. W. E. Barton, March 9, 1900, quoted by H. C. E., *Boston Medical and Surgical Journal*, June 14, 1900.)

Speaking upon this subject, one of the clearest writers of the day says:—

The insidious growth of selfishness is a disease against which men should be most on their guard; but it is a grave though a common error to suppose that the unselfish instincts may be gratified without restraint.

The fatal vice of ill-considered benevolence is that it looks only to proximate and immediate results without considering either alternatives or distant and indirect consequences. A large and highly respectable form of benevolence is that connected with the animal world, and in England it is carried in some respects to a point which is unknown on the Continent. But what a strange form of compassion is that which long made it impossible to establish a Pasteur institution in England, obliging patients threatened with one of the most horrible diseases that can afflict mankind to go—as they are always ready to do—to Paris, in order to undergo a treatment

which what is called the humane sentiment of Englishmen forbids them to receive at home! What a strange form of benevolence is that which, in a country where field sports are the habitual amusement of the higher ranks of society, denounces as criminal even the most carefully limited and supervised experiments on living animals, and would thus close the best hope of finding remedies for some of the worst forms of human suffering, the one sure method of testing the supposed remedies, which may be fatal or which may be of incalculable benefit to mankind! . . . It is melancholy to observe how often sensitive women, who object to field sports, and who denounce all experiments on living animals, will be found supporting with perfect callousness fashions that are leading to the wholesale destruction of some of the most beautiful species of birds, and are, in some cases, dependent upon acts of very aggravated cruelty. (W. E. H. Lecky, "The Map of Life," 1889, pp. 36 and 41.)

For some time the *New England Anti-vivisection Society Monthly* (now known as the *Animals' Defender*) published the following:—

What is vivisection, and what can I do to help the crusade against it? Answer: Vivisection is the mutilating, cutting, and burning of living animals: they are dissected, roasted, boiled, and skinned, when alive *and in full possession of their faculties* [*Italics mine*]. Nerves are dissected out, laid bare, and connected with the poles of a powerful battery from which currents of electricity are passed over these nerves: this probably causes the greatest agony of which sentient beings are capable. . . . The New England Anti-vivisection Society opposes vivisection (1) because the number of animals vivisected, with unknown and inconceivable agony to each one, is probably several thousand each day; (2) because anæsthetics are very seldom efficiently used; (3) because the results of vivisection are as near to absolute worthlessness as it is easy to get, in fact cause great and absolute harm; (4) because, as recent revelations in the *Transcript* (1889) and other papers abundantly show, vivisectioners of prominence and supposed character are, almost without exception, untruthful, and cannot be relied upon to tell the truth about their own acts [and so on].

These statements are so positive and, if true, would be so overwhelming that it is hardly conceivable that they would have been put forth with no better evidence to support them than has been offered from time to time in their support. Full

hearings have been given upon this subject by joint committees of the Massachusetts legislature, not only in one year, but for five successive years. Every opportunity has been given for the presentation of any specific evidence of cruelty or of the abuse of the practice of animal experimentation within this Commonwealth. The result has been uniformly the report of the committee giving "Leave to withdraw" to the supporters of the various bills that have been presented favoring further legislation in restricting or abolishing animal experimentation. If any portion of these statements of fiendish cruelty and useless experiment had been shown to be true, such a result before these successive committees would have been impossible.

None of the statements in the extract from the anti-vivisection magazine are specific of individual cases. Only when this happens is it possible to make specific replies. The well-known case of *Bayliss v. Coleridge* is one in point, and demonstrates how inaccurate supposedly accurate observation may be. The circumstances should be of interest to all those concerned in the advancement of medical knowledge:—

They may be summarized briefly as follows: Two young Swedish women, of good education and social position, had been visiting various laboratories and attending lectures in courses on physiology, apparently with the purpose of securing evidence to be used in propaganda against animal experimentation. During the winter of 1902-03 they visited London, and in February, 1903, at one of a course of lectures in physiology at University College, they claimed to have witnessed experiments that were conducted with great cruelty and in violation of the law. They were at this lecture—as they had been at others—not as genuine students of physiology, but as seekers after evidence in their crusade against animal experimentation of any kind. They were well educated, and might be supposed to be honest. It would be natural therefore to believe that they could see and understand what went on within a few feet of them, and would take pains to report truthfully what they saw. They testified that they saw no tube connection made for purposes of artificial respiration; that the animal experimented upon made many purposive movements, indicating a conscious struggling; that they smelled no anæsthetic, and believed that none was given; that cries, whines, and barks had been heard; and that the animal

had made a shrinking movement, as of fear, at the first approach of the operator. As against this professedly close and accurate observation it was proved in court, before the Lord Chief Justice of England: (1) that artificial respiration was carried on all the time the animal was on the table in front of them; (2) that the animal was profoundly anesthetized,—one and a half grains of morphia had been injected before it had been brought into the room (a very large dose), and that six ounces of the "A. C. E." mixture (alcohol, chloroform, and ether) had been used during the operation; (3) that this particular dog was affected with chorea, and that the movements seen were choreic—not purposive—in character; (4) that tracheotomy had been performed, and it was impossible therefore that any cries, whines, or barks, could have been heard; (5) that the shrinking movement of fear testified to could not have occurred for the above reasons.

The ladies, relying upon their own powers of observation, made a statement of what they claimed to have seen to Mr. Stephen Coleridge, honorary secretary of the Anti-vivisection Society (of England), a lawyer and a member of the English bar. This gentleman, as he testified, accepted their statement without any attempt at verification, although he knew that giving publicity to it would be likely to be followed by prosecution. Apparently, however, the search for evidence to support the agitation had grown so desperate that this opponent of animal experimentation was ready, even anxious, to use the testimony, and did so, amid great enthusiasm, at the annual meeting of the Anti-vivisection Society, early in May, 1903.

The prosecution for libel followed promptly, with the substantial verdict against the defendant of nearly ten thousand dollars (\$10,000).

That a lawyer, trained in the weighing of evidence and with a knowledge of the necessary responsibility accompanying specific assertions of cruelty, should have taken no step to verify his supposed facts, seems inexplicable. The defendant gave as his reason that he knew they would be denied, and during cross-examination went so far as to say that he still believed the women to have testified to the truth—this after their statements had all been denied under oath!

Here is the condition of mind we have found much nearer home. The opponents of animal experimentation deny its usefulness in the face of overwhelming evidence to the contrary—evidence that to them is not such; for they do not believe it when it is stated, and take no pains to verify it by actual observation. It may perhaps be fortunate, after all, that such attempts at verification are not made by such people, if their interpretation of the facts seen by them is to be as false as it was in this instance.



It has not yet happened that specific allegations of cruelty have been made in Massachusetts. Of general assertions there have been many, all of the same character, and repeated year after year. Perhaps such a disastrous failure as that of Mr. Coleridge, in the exploitation of an unsubstantiated calumny, may prove a salutary warning even to the most violent opponents of physiological research and teaching. That simple limitation is not what they desire, but absolute prohibition, is becoming more and more evident year after year.

If the unhampered advance of medical knowledge is to go on, ever-watchful care must be taken that methods like those illustrated in this trial are not successful. (H. C. Ernst, editorial, *Journal of the Massachusetts Association of Boards of Health*, xiv., No. 1, February, 1904.)

This case furnishes the best possible example of the difficulty of relying upon the observation of persons whose honesty of purpose may hardly be questioned, as one was not at first tempted to do, even in this instance. What, however, can be said, when, in spite of the testimony brought out in the trial of the suit for damages, showing that their observed and deduced facts were not facts, in spite of the advice of the defendant in this suit, whose reputation and pocket had suffered so severely by reason of his reliance upon their statements—what can be said of the honesty of purpose that led these women to publish this same case as truth, and without a single qualifying word of doubt? Such methods of interpretation are not a surprise to one like myself, whose duty has required the close examination and sifting of assertions brought forward in support of repeated attempts to secure unnecessary and burdensome legislation upon this subject in this Commonwealth.

I have, I believe, been more or less actively concerned in opposition to every attempt at legislation of this sort in this State. I do not remember that I have missed a single hearing upon the matter; and I have attempted to sift every piece of assertion that has been brought forward in favor of the proposed legislation to further restrict or to abolish animal experimentation.

I paid so much attention to the matter in the early days of my experience with it because I wanted to learn. I am myself a lover of animals, as all my neighbors know; and,

when my own work began to lie in the direction of animal experimentation in the hope of increasing the sum of human knowledge or doing some small thing towards the relief of human suffering, it became a matter of anxious consideration with me as to how much of this work I should do and how far such influence as I had should be allowed to support it.

So far as I have been able to do so, I have studied the matter from all its points of view, from its moral as well as its utilitarian side; and, so far as its justification is concerned, the evidence has appeared to me to be so overwhelmingly in its favor that I have been compelled to become its uncompromising supporter. It seems to me impossible that any one who has lived, as it is our privilege to live, in a generation that has seen the labors of a Pasteur, of a Koch, or of a Reed, who has had actual experience in seeing the sick snatched from the grave by the personal use of the results of similar labors, or who is able to realize the enormous saving of life to both man and the lower animals as the result of this method of study—it seems, I say, impossible that such a one can honestly oppose the continuation of the practice of animal experimentation in the freest possible way.

And by this I do not mean, nor do I know any one else to mean, unlimited freedom to any one to experiment at any time and in any way upon the lower animals. Such freedom does not and should not exist.

That it does not exist is not, I believe, generally known; for it is only because the present laws in the case are not known that much of the support is given to the annual agitation for further restriction of the practice. One example of this is furnished by a well-known and highly honored clergyman of this community, who signed the petition for one of the recent bills, and appeared at a hearing in its favor. At this hearing he spoke eloquently and somewhat at length in favor of placing some restrictions upon the practice, evidently under the impression that none then existed. Upon being informed of the actual condition of the laws and that the passage of the bill would seriously interfere with the beneficent work of many of his friends, his consternation was amusing, and pathetic as well. He himself proposed the remedy that the remonstrants to the bill should get up a counter-petition, and promised to sign that, too!

It is not true that restrictions to the practice of animal experimentation are lacking. The implications and assertions that none exist are not based upon facts, any more than is the description of what "vivisection" is, already quoted.

The editorial writer in the *Outlook* speaks of the needlessness of such demonstrations in the public schools, and in that I heartily agree with him. But there is now, and has been for years, a law upon the statute books absolutely prohibiting vivisection in the public schools; and no attempt whatever has been made, so far as I have heard, to modify or to evade its provisions. This part of the question is therefore absolutely closed.

The present laws governing cruelty to animals cover all remaining cases; and, to show how completely this is true, I may be permitted to quote them in part:—

Whoever overloads, overdrives, or overworks, or deprives of necessary sustenance, or cruelly beats or mutilates an animal, or procures this to be done to any animal, or, having charge of or being in custody of any animal, inflicts unnecessary cruelty upon it, etc., is punishable by imprisonment in a jail for a period not exceeding one year, or by a fine not exceeding two hundred and fifty dollars, or both. . . . A corporation which violates this provision is punishable by fine, and is responsible for the knowledge and acts of its agents or servants. Officers are authorized to arrest without a warrant persons who are suspected of being guilty of this act.

And, finally, there is a most stringent and unusual provision to the effect that, when a complaint is made to a court or magistrate, and when the complainant believes, and has reasonable cause for believing, that this law is being violated in any particular building, or place, and the magistrate or court is satisfied that there is reasonable cause, he may issue a search warrant to search the building. (Adapted. Public Statutes, Chap. 297, par. 52.)

First-rate legal opinion comments as follows:—

There is therefore in Massachusetts a law applicable to vivisection of the most extreme kind, which would enable any person who could satisfy a court that he has reasonable cause to suspect that cruelty was being practised in a Massachusetts

medical school, or elsewhere, to procure a search warrant to search the premises and discover the animal and the parties cruelly treating it, and to cause the arrest without a warrant of the persons who are suspected of practising the cruelty. So that this agitation is directed, as indeed has many times been acknowledged, against the professional schools; for vivisection is not practised in any other schools in this Commonwealth.

This being so, the question at once arises as to the trustworthy character of the trustees of our educational institutions, on the one hand—whether they are so negligent of the duties intrusted to them as to allow such fiendish cruelty to go on as is asserted to occur—and, on the other hand, whether the instructors appointed by them, after searching inquiry as to character as well as training, are so callous and unfeeling as the accusations state. In all the years that the hearings have occurred at the Massachusetts State House no evidence has been brought forward proving the existence of such a state of affairs. It may justly therefore be supposed that the public confidence in these officials is not misplaced.

Much of the argument against animal experimentation—of late years—has rested upon assertions and implications that the experiments are conducted without anesthetics efficiently used, and while the animal is conscious and suffering. Assertions of this nature, like the description of vivisection already quoted, are absolute, and, as I believe, intentional falsehoods. So far as my personal work is concerned or that of the laboratory under my charge, I may say that no experiment, except simple inoculations, has ever been made except under profound anesthesia. I have never seen one done, and I know them to be of the rarest occurrence—only considered at all when the object to be gained can be reached in no other way.

In other words, the demand that such operations be conducted with all possible precautions to avoid unnecessary suffering is already met in every institution of which I have personal knowledge or which has been brought to my notice.

I have said publicly many times that, if evidence is presented to me or my friends in this matter demonstrating the existence

of abuses that the present laws do not fully cover, we will support an active movement for reform. We must have evidence of worth, however. One can hardly be expected to ask for new legislation upon the testimony of an agitated lady near our Medical School, who was much troubled by the daily current of beautiful collie dogs taken in every morning—and never coming out again! These were my dogs, who used to run in with me every morning as I rode or drove through the Park, and who never seemed to go out again because, being the Fall, we all went home after dark. I believe it to be possible to assert with truth that the requirements of careful supervision and a minimum of suffering are fulfilled in every institution where the practice of animal experimentation is carried on. Certainly, if this is not so, it is strange that I have never heard of any proof of the existence of the abuse of the power of man over animals in this direction that has not been promptly rebuked. If such abuses do exist, there is plenty of law on the statute books to secure their punishment; and it would be my duty and pleasure to take part in the enforcement of these laws.

The Society for the Prevention of Cruelty to Animals finds no difficulty in securing convictions under the present laws in cases of abuse brought to its notice.

The complaint often made is that it is difficult to secure evidence of the abuse of the practice of animal experimentation, because those desiring to secure such evidence cannot get into the laboratories or demonstration rooms where experimentation is going on.

That the desire of any intelligent person for information on this subject or for admission to any laboratory where this practice goes on has ever been denied, I do not believe. It certainly has not been so in any place with which I am familiar. On the contrary, it is the fact that some of the most prominent agitators against animal experimentation have refused direct invitations to come and see for themselves; and one in particular is on record with the remarkable assertion, "I do not need to go into a laboratory to know what is going on there"!

The whole case may be summed up thus: If man's dominion over other animals is justifiable at all, then the use of those animals for the furtherance of his and their well-being is justifiable in the direction of experimentation, as in others. Such use must, however, be surrounded by all safeguards that it shall be merciful and as painless as possible. Such safeguards those competent to judge have said again and again are in existence, and no proof to the contrary has been brought forward.

## 2. SOME PHASES OF FOOD ADULTERATION AND INSPECTION.

BY ALBERT E. LEACH, ANALYST OF THE MASSACHUSETTS STATE  
BOARD OF HEALTH.

It is a significant fact that, in view of the importance of maintaining and enforcing laws to insure the purity of human food, so little interest is shown on the part of the public in such a vital subject. This is particularly apparent when we consider that Congress cannot succeed in passing a pure food bill after years of repeated effort, though it seemed almost certain that such a bill would become a law during the last session.

It is furthermore significant that, while for many years various State Experiment Stations have been devoting themselves to the study of cattle-feeding and to the examination of cattle foods, it is only within a few years that they are awakening to the fact that human food is at least as important.

In spite of the indifference just noted, an exaggerated impression seems to prevail regarding the character and extent of food adulteration. The popular belief is that nearly everything we eat and drink is subject to gross adulteration, the effect of which is very disastrous to the public health, being largely responsible for the wide-spread indigestion so common in this country.

A moment's reflection will show that actual adulteration is confined to a very small portion of our food supply, since the staple articles on which we most depend, and which we consume in largest quantities, such as cereals, fruits, vegetables, eggs, and fresh meat, are from their nature rarely subject to adulteration. It is the less important classes of prepared foods, canned goods, condiments, and spices, that we find most liable to sophistication; and of these we eat comparatively small amounts in the aggregate. Furthermore, by far the most common forms of adulteration consist in the admixture or substitution in these prepared foods of cheaper or inferior, though, as a rule, harmless ingredients, whereby

deception is practised as to the value of the food, rather than in the employment of poisonous substances. Indeed, the latter, while occasionally found, are extremely rare. We thus see that the question of food adulteration resolves itself largely into a form of commercial fraud,—a menace not so much to the stomach as to the pocket-book.

If, as a matter of fact, indigestion is more prevalent with us in America than elsewhere, and if the food we eat is responsible for this, is it not more probable that bad cooking, high living, or quick and irregular eating, may have more to do with it than the adulteration of our food?

But, it may be asked, what about antiseptics in food, alum in baking-powder, poisonous liquors, and all the rest of the dangerous things we dread so much?

While I may make the statement pretty positive that poisonous substances as such are rare in our food, there are certain substances which from their nature should at present be regarded as questionable, from the fact that it is not known whether or not any harm results from their use. I refer particularly now to the matter of antiseptics, the use of which in food is becoming prevalent:

From time immemorial mankind has depended on sugar, salt, spices, and vinegar for preservatives, all of which, by the way, have in themselves food value. When a few years ago the use of chemicals not inherent in food, such as salicylic, benzoic, boric, and sulphurous acids, formaldehyde, and other antiseptics, came into use, much concern was naturally manifested, and with some reason. At first the opposition was most bitter and determined, but in spite of this, the fact remains that they are used more and more extensively as time goes on.

The advocates of the use of chemical preservatives claim that there are no authentic instances on record of injury from the use of such minute quantities of these substances as are necessary to arrest decay, while there are well-known cases of injury arising from the use of foods which, while apparently wholesome, have undergone such fermentation as to develop ptomaines and other harmful toxins, and that, because these antiseptics do prevent the spoiling of food, their use is beneficial; that, furthermore, there is no more reason why a preju-



dice should exist against the employment of these newer chemicals, than against nitrate of potash or saltpetre, long used in the corning of meat, or against the cresols and phenols left as a product of smoking.

The opponents to their use assert that the addition to food of such antiseptic substances as prevent its decay also serves to retard the digestive processes when the food is eaten; that many of these substances are drugs, and as such cannot fail, even in small quantities, to exercise a toxic effect on the system; that, finally, their use is objectionable, as allowing the employment in certain foods of old materials that have in some cases already undergone incipient decomposition before the addition of the antiseptic, and are hence unwholesome.

If you ask the physician or toxicologist what is the effect of the use of these antiseptics on the human system when present in amounts actually found in food, if he is strictly honest, he will have to tell you that he does not know. He undoubtedly has a strong feeling *pro* or *con*; but he does not know, simply because it has not yet been demonstrated. Experiments on dogs, using excessive doses of these antiseptics, and even artificial digestion experiments, have proved of little practical value. Only by repeated experiments on a large scale on human beings can we get definite and satisfactory information. The Bureau of Chemistry of the United States Department of Agriculture, with its much-talked-of "poison squad," is at work along this line.

In the mean time the food commissions and boards of health in most States have hesitated to entirely prohibit the use of antiseptics; and the consensus of opinion seems to be that the best method at present is to compel the use of a label on containers of compounds, such as jellies, jams, ketchups, and the like, wherein antiseptics are used, stating plainly the name and percentage of such antiseptic. This, for instance, is a provision of our food law in Massachusetts.

While the average able-bodied person may not hesitate to eat food containing antiseptics, the question is very different with invalids or people of delicate health. Here, if anywhere, there is a good reason to fear the ill-effect of their use.

Another growing custom is the use in food of artificial coloring matters, the main object of which is to conceal inferiority.

I have here some examples of these colors. Here, again, while the question of possible injury to health from the use of these colors has been raised, we must regard it as subordinate to the main issue,—the ever-present commercial one of making a cheap mixture of ingredients masquerade as a high-priced article. The same regulations as to labelling apply in the case of colors as of antiseptics.

Now as regards alcoholic liquors. Time and time again we hear our most zealous temperance advocates protesting about the poisonous effects of *adulterated* liquors, not realizing that water and sugar are their chief adulterants, and that poisonous substances are almost never used. In fact, the adulteration of these beverages really promotes the cause of temperance, because nothing in liquor has such marked physiological, if not toxic, effects as alcohol itself, which, if diluted, certainly renders the liquor less potent. In making these statements, I do not condemn the offence of adulterating liquors, but am simply trying to show the effect of adulteration on the health of those who consume liquors as a beverage. On the contrary, when we consider the alcoholic liquors as medicinal preparations, we realize the importance of keeping them strictly to the required standards of the Pharmacopœia.

All rules have their exceptions. So here I must qualify the statement that our staple foods are least subject to adulteration. Though this is true in the main, there is one conspicuous exception; and that is milk, which of all foods is most readily tampered with.

Aside from the time-honored practice of watering and skimming milk, the use of antiseptics and of artificial colors is becoming more common, though these forms of sophistication are largely held in check in States and communities where strict food laws are enforced. In Massachusetts, for example, something like 1 per cent. of the total milk samples analyzed contain added preservatives, and less than 1 per cent. are artificially colored.

However liberally the use of antiseptics and colors in other foods may be viewed, there is practically but one opinion among food commissioners and health boards regarding their use in milk. Here the presence of any foreign substance whatever should be unqualifiedly condemned, principally because of the

wide-spread use of milk as a food for infants, invalids, convalescents, and those who are delicate and sickly. Again, even if an antiseptic in milk has in itself no serious effect on health, its presence allows the use of old milk, which cannot be considered wholesome.

I have a sample of perfectly sweet milk which has been kept in a bottle for over three years. It was preserved by the addition of 10 cc. of formalin. While this sample has shown no tendency to lactic fermentation, I am sure no one would care to drink it, even if the effect of the formaldehyde is entirely harmless.

Even though we are forced to admit that the element of commercial fraud in food adulteration as it is now practised is more in evidence than that of danger to health, it is none the less important that every effort should be made to insure the purity of our food supply.

It is not sufficient to establish food laboratories and to provide for the analysis of various foods. Further means must be adopted in order to hold in check this evil, for I suppose it will always be impossible to prevent it.

There are three practical methods for suppressing the sale of impure or adulterated food by the authorities having in charge the enforcement of the law in various States; namely, by publication, by notification, and by prosecution. Whether either or all of these methods are employed depends much on local conditions. Under the laws of some States the only means of protecting the people lies in publishing lists of adulterated foods with their brands and manufacturers' names and addresses in periodical bulletins or reports. Such publication, by keeping the trade informed of the black-listed brands, has a decidedly beneficial effect, and involves less trouble and expense than any other method. It is, however, obviously an advantage, in addition to this, to be able to use more stringent methods, when necessary.

The adulteration of food is most efficiently held in check in localities where, under the law, cases may be brought in court, and are occasionally so brought. The mere power to prosecute is in itself a safeguard, even if that power is not frequently exercised. Under a conservative enforcement of the law actual prosecution should be made as a last resort. Except

in extreme cases it is found far more effective to notify a violator of the law, especially if it is a first offence, giving warning that subsequent infraction will be followed by prosecution. Such a notification frequently serves to stop all further trouble at once, and with the minimum of expense. Instances are frequent in Massachusetts where, by simple notification, widely distributed brands of adulterated food have been immediately withdrawn from sale.

It is a matter of pardonable pride to us in Massachusetts that our State was the pioneer, over twenty years ago, to establish a regular system of food and drug inspection; and for many years, indeed, it was the only State to maintain such a system. Only within the last decade have other States come to see the importance of doing likewise, and it is a matter for congratulation that so many to-day are doing efficient work along this line. Now nearly every State has pure food laws, making the matter of adulteration an offence, but it is cause for regret that no more of them have efficient machinery for enforcing these laws. In this respect we must admit that our country is far behind Great Britain, where for many years every country and borough has had its public analyst.

I will briefly outline in a very general way the method of the Food and Drug Department of our State Board of Health in dealing with the problem. There are three inspectors who travel over the State and collect from different cities and towns samples of food and drugs, which they bring to the laboratory of the board at the State House for analysis.

Milk is collected from producers on the farm, from dealers' wagons, and from stores. About 10,000 samples of foods and drugs are annually collected and analyzed, three-fifths of which, or approximately 6,000, are, under the law, milk or milk products. Of the foods exclusive of milk and of the drugs much discrimination is exercised by the inspector in selecting samples, since long experience has shown the classes most liable to adulteration. These of course claim chief attention. Standard brands and foods known to be pure are of course not included, though attention must be given to possible new forms of adulteration which are constantly coming to the front.

Indeed, it is a well-known fact that modern food adulteration has become a science in itself, and that many large manu-

facturers employ skilled chemists, whose duty it is not only to deceive the public, but the State analyst as well.

Specific instances of food adulteration in Massachusetts are dealt with at the discretion of the board, which has full power to publish, to notify, or, as a last resort, to prosecute. Cases are brought in court with practically no expense for legal services. Complaints are entered by the inspector, who makes them not in his official capacity, but as a citizen, who, under the law, has been sold a food found to be adulterated, and who is entitled to conduct his own case, which he does with the aid of the analyst and of such other witnesses as he may require. Experience is readily acquired by the inspector in conducting such cases in the lower police or municipal courts, where they are first tried; and years ago the services of legal counsel in Massachusetts were with a few exceptions dispensed with as superfluous. While more often settled in the lower courts, occasional appeal cases are carried to the superior courts, where the services of the regular district attorney are of course availed of in prosecuting the case.

The classes of food which we most commonly find adulterated are in their order named about as follows: milk, vinegar, flavoring extracts, jellies, jams, canned goods, cocoa, honey, butter, lard, molasses, spices, coffee, and cream of tartar. Tea is rarely adulterated, owing to the rigid system of government inspection at ports of entry.

Of the above-named articles, no class gives more trouble to the enforcers of the law than the so-called compound foods, such as jellies, jams, and flavoring extracts.

Take, for instance, the average 10-cent jar of raspberry jam. Its typical composition is somewhat as follows: apple stock (often from the cores and parings of apple canneries), 30 per cent.; raspberry fruit and seeds (often the residue from higher-grade jelly pressings), 20 per cent.; cane sugar, 15 per cent.; and commercial glucose, 35 per cent. Such a mixture is most frequently colored with a coal-tar dye and preserved with benzoic or salicylic acid. You will note that the main fruit constituent is furnished by the apple rather than by the raspberry. If such a mixture is sold as pure raspberry jam, it is obviously a fraud.

Under the laws of several States, such a mixture cannot be

legally sold at all. Yet with the possible exception of the color and preservative, the mixture is a wholesome one, and, if sold at a fair price and on its merits, furnishes an appetizing condiment to people who could not afford the pure fruit preparation which it displaces. This jar retails at 10 cents. Its pure prototype, put up according to the housewife's formula, would cost at least two and one-half times that price.

Under the laws of Massachusetts such a mixture can be sold, if it has plainly marked on every package the name and per cent. of its ingredients. This law is intended to acquaint the purchaser with just what he is buying, so that, if he has scruples against any of the ingredients, he may avoid it. Unfortunately, these labels with formulas are not always truthful; and it is one of the analyst's problems to verify them. Brands of fruit jellies are on the market bearing in plain letters the title Raspberry, Currant, Grape, etc., and containing, as a matter of fact, no trace of these fruits. Perhaps in an obscure label are found the words "fruit juice, 40 per cent.," which however, does not convey to the consumer the fact that the fruit is exclusively apple.

Some of these formulas are honest, and others are misleading, either by erroneous statements or by their indistinctness. Some are like puzzles, in that they are difficult to find or read.

And now a final word regarding the real extent of adulteration and the effect thereon of State control. It is impossible for many reasons to give a close estimate of the actual percentage of adulteration. Since the foods examined by health boards and food commissioners are from the restricted field of suspected classes, statistics of these bodies do not show the actual percentage in the aggregate. On the accompanying chart I have graphically shown the variation in adulteration of milk, foods exclusive of milk, and spices during the twenty-one years of our work. The abscissæ show the calendar years from 1883 to 1903, inclusive, and the ordinates the percentage of adulteration.

The effect of a system of inspection on the quality of the food supply is at once apparent, as at the beginning of the period the ratio of adulteration in all classes of foods was very high.

The marked fluctuations from year to year in the milk and

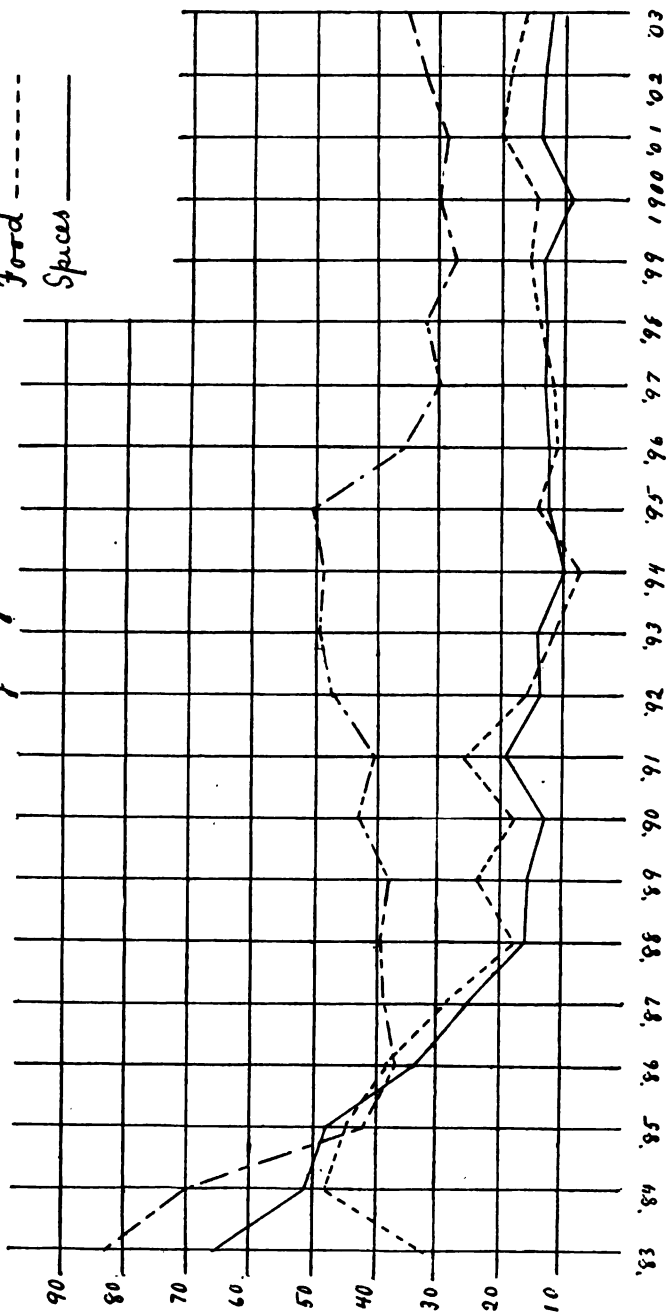
food lines are all readily accounted for, and are due mainly to difference in the character of the foods collected, and to changes in standards made by the legislature from time to time.

I have introduced the line showing variation in spices, because of all foods these are least subject to fluctuation from the above causes, and thus serve as an index to show by a comparatively smooth line the improvement due to our system of inspection.

It is, I think, safe to assume that less than 5 per cent. of the aggregate food products sold in Massachusetts are adulterated.

*Variation in Adulteration  
 of Food in Massachusetts  
 during 21 years*

Milk -----  
 Food -----  
 Spices -----





### 3. THE SIGNIFICANCE OF THE TUBERCULOSIS CRUSADE AND ITS FUTURE.

BY EDWARD O. OTIS, M.D., OF BOSTON, MASS.

Organized effort for the purpose of fighting pulmonary tuberculosis is now being made in nearly every civilized country of importance in the world. It is called the "crusade," the "warfare," the "struggle" against consumption. Governments and rulers, sanitarians and physicians, philanthropists and "the people" of all classes, are taking part in this movement. It is singularly impressive to observe this great and wide-spread wave of combined effort against a single foe; and it would be difficult to find a parallel to it, comparable either in extent or activity, in any similar movement of the past. A brief enumeration of some of the principal anti-tuberculosis associations and special forms of activity in different countries may aid us in more vividly realizing the extent and magnitude of this crusade.

In Great Britain there is the National Association for the Prevention of Consumption and Other Forms of Tuberculosis, under the patronage of the king and the presidency of the Prince of Wales. Branches of this association exist all over England, and it has its own publication. At its instance there was held in London in 1901 the International Congress of Tuberculosis, attended by delegates from various parts of the world. As one result of this congress, Sir Ernest Cassel placed at the disposal of the king \$1,000,000 for the establishment of the King's Sanatorium now in process of erection. There exist already some seventy sanatoria in the United Kingdom, with a total of 2,760 beds.

In Germany anti-tuberculosis societies, and associations for the erection of sanatoria, exist in most of the cities; and about ninety sanatoria for the poor and working people, with accommodations for many thousands of consumptives, have already been erected. There is a German Central Committee for establishing Sanatoria, under the patronage of the empress; and an International Bureau for the Prevention of Tuberculosis

has been organized in Berlin, with its special organ. In 1899 a Tuberculosis Congress of an international character was held in Berlin, under the patronage of the empress. The German Workmen's Insurance, which insures against invalidity, largely employs the sanatoria, either of its own construction or others, for its consumptives, on purely economic grounds, finding it more economical to cure or so improve such patients that they may resume their occupation rather than pay sick benefits for a longer period of time while they are slowly dying of the disease.

In France both the government and the people are working together in various directions. In 1899 the government appointed a large commission to determine the preventive means to be adopted throughout the republic. There are seventy-eight anti-tuberculosis societies in the different cities, united in a national federation under the patronage of the president. The anti-tuberculosis dispensary was first inaugurated in this country, Dr. Calmette founding the first one at Lille. Several congresses for the study of tuberculosis have been held in Paris, and an international one is to occur there in 1905. In December last the *Figaro*, a leading Parisian journal, dedicated an entire issue to the fight against consumption.

In Denmark there is a national association founded two and a half years ago at Copenhagen; and, through voluntary contributions from members of this society, three sanatoria have been erected.

National leagues likewise exist in Italy, Austria, Belgium, Spain, and Portugal. In Russia many such leagues have been formed in various portions of the vast empire,—at Moscow, St. Petersburg, Odessa, Sebastopol, Tiflis, etc.

In Norway the government enacted in 1901 a very comprehensive law regarding the prevention and control of tuberculosis.

In Sweden, on the occasion of the twenty-fifth anniversary of the king's reign, the sum of \$644,000 was raised by a national subscription, and presented to him. This amount, together with \$238,000 voted by the Reichstag, was applied to the erection and maintenance of three sanatoria in different parts of the kingdom. The educational propaganda by means of popular essays and the press has been very active in this country.

The official almanac, which enters every household, has for the past two years contained a brief account of tuberculosis and practical rules for the government of the consumptive and his household.

In Switzerland almost the entire population, one can say, is taking part in the struggle. In most of the important cities various organizations exist for the purpose of aiding the tuberculous poor and disseminating anti-tuberculosis literature. More than a dozen popular sanatoria have already been established in this little country, and twenty paying ones. There are also several sanatoria for tuberculous children.

In Holland there is a national association for the creation of sanatoria for the poor, with sub-committees in the principal cities. The queen-mother Emma has taken an active interest in this movement, and has made substantial contributions.

In Turkey, Hungary, Bulgaria, and Roumania both the government and various societies are at work, with the same general objects in view as in other countries.

In South America leagues exist in Brazil, Argentina, Chili, Uruguay, Paraguay, Bolivia, Ecuador, and Cuba. A general Latin-American Congress met at Santiago in 1901, and formed a permanent international commission to direct the crusade in these countries.

In Canada there is the Canadian Association for the Prevention of Consumption and Other Forms of Tuberculosis, whose honorary president is the Earl of Minto, the governor-general. Ontario and Montreal also have their leagues. In the provinces of Ontario and Quebec sanatoria have been established.

In Mexico, Central America, Australia, and New Zealand similar anti-tuberculosis agitation is in progress; and in Japan the imperial government has created a large hospital for the study and treatment of the disease.

In the United States there are various State and local associations. The first one of the kind was the Pennsylvania Society for the Prevention of Tuberculosis, founded in 1892. Quite recently Mr. Henry Phipps, of New York, donated \$1,000,000 for the establishment in Philadelphia of an institute for the "study, prevention, and treatment of tuberculosis."

This great "crusade" is of comparatively recent origin,

dating back hardly more than a decade: and its incentive is the result of a *discovery* and a *fact*.

The *discovery* is the finding or isolating of the tubercle bacillus and the proof that this micro-organism is invariably the cause of the disease, or, in other words, that pulmonary tuberculosis is *communicable* or infectious. The *fact* is the enormous *prevalence* of the disease, and, further, that its *greatest mortality* is at the best period of a man's life, between fifteen and forty-five years of age. Of all who die during this period fully one-third die of pulmonary tuberculosis.

Possessing this knowledge of the cause of the disease and the method of its communicability, it is at once apparent that it is *preventable*, if we can find a sure and ready way of controlling the cause; *i.e.*, the infecting germ. Happily, this is easy; for it is through the sputum alone of the consumptive that the contagion is conveyed. The breath, the perspiration, the other discharges from the body do not contain the specific germ, only the *sputum*; and this is dangerous only when it becomes dry, and releases into the air the infecting micro-organism. The conveyance of the disease by animals suffering from it is still under discussion, the weight of evidence so far being in its favor. If it is a fact, it counts for relatively little in comparison with the sputum cause of infection. Few, if any, phthisio-therapeutists would, I think, agree with Von Bering that everybody has latent or active tuberculosis, caused by the ingestion of milk during infancy.

The tubercle bacillus is a vegetable parasite, a seed, and, like other seeds, requires a favorable soil for its germination and growth. Furthermore, it resembles other seeds in the characteristic of exhausting or changing the character of the soil in producing the crop. Tuberculosis, by its growth, not only feeds upon the normal lung tissue and renders it incapable of performing its proper respiratory function, but so changes its structure that it becomes a ready prey to other destructive micro-organisms.

It is at once evident, then, that not all individuals exposed, even for a prolonged period, to the tubercle bacilli, contract the disease, provided their tissues are sufficiently resistant; and in this fact lies the whole theory of the present method of the treatment of the disease,—to convert a previously receptive organism into a resistant one.

It was the stony soil which afforded no deepness of earth to the sower's seed, and "because they had no root they withered away." So the tubercle bacillus will not grow in a healthy organism. But the seed falling into good ground produced an ample crop, thirty, sixty, an hundred fold. So it is the conjunction of the bacillus and the favorable soil whose fruition is pulmonary tuberculosis.

The favorable soil is the human organism depressed below its normal standard of health by many and various influences and conditions, either chronically or temporarily. Here comes in the influence of heredity as a factor in producing this favorable soil. Whereas consumption is not inherited,—for a contagious disease is caught, not transmitted,—yet experience indicates that a "*tendency*" to it, a special sensitiveness to the tubercle bacillus, appears to be inherited in a certain proportion of cases, not by any means in all.

The causes working to prepare this favorable soil are all those which we class under the head of unhygienic life and environment, or, in other words, they are the evil resultants of civilization. It is hardly necessary to enumerate them. Unsanitary dwellings and workshops, alcohol, unwholesome occupations, excessive labor, insufficient and improper food, and, more potent than all the rest, vitiated air. "He who has been the free child of nature," says Mr. Edward Carpenter\* "denies his sonship; he disowns the very breasts that suckled him. He deliberately turns his back upon the light of the sun, and hides himself away in boxes with breathing-holes (which he calls houses), living ever more and more in darkness and asphyxia, and only coming forth, perhaps once a day, to blink at the bright god, or to run back again at the first breath of the free wind, for fear of catching cold."

Tuberculosis is an ubiquitous disease; and no region, whatever its climate and latitude may be, is exempt from it. The countries of the north and the tropics are alike swept by its ravages. Wherever human beings congregate, as in thickly settled portions of great cities, or wherever they shut themselves up in a vitiated atmosphere, like the Scandinavian farmers of Minnesota or the peasants of Brittany, there it is most prevalent.

The yearly holocaust is appalling; but we have become so

\* *Civilization: Its Cause and Cure.* By Edward Carpenter.

inured to it that it no longer startles us, like some sudden catastrophe which destroys a few hundred lives. The annual sacrifice to it in France, for instance, is 150,000 lives, equal to the number of inhabitants of the city of Rouen. In this country it claims an equal number of victims, and so on in much the same proportion throughout the civilized world.

Is it any wonder that at last men are awakened to the realization of the destruction caused by this grim monster? Now that we know its cause through the transcendent discovery of Koch, and are able to control it, the enemy is no longer veiled in mist, but stands clearly revealed before us. It is only a matter of the selection of weapons, the mobilization of forces, and the persistence of the warfare to defeat the enemy, to exterminate this "great white plague."

It will be instructive now to consider some of the weapons and the different lines of attack employed in this warfare. There are five main lines along which the advance is being made,—the Educational, Social, Isolation, Governmental, and Medical.

Under Educational are comprehended the various methods of instructing the people in the simple facts regarding tuberculosis,—its prevalence, cause, communicability, prevention, curability, conditions producing the favorable soil, symptoms suggestive of its presence. This is accomplished by means of popular lectures, pamphlets, illustrations, placards, and the like. Existing organizations of all kinds are asked to furnish audiences, or they themselves ask for lectures and information upon the subject. The schools, labor unions, lodges, educational centres, clubs, churches, neighborhood settlements, employees in great department stores, are all available for audiences. Physicians, sanitarians, laymen who have had exceptional opportunities to become conversant with the subject, like Professor Fisher of Yale College, are available for lecturers. Leaflets, pamphlets, or more elaborate productions, are furnished gratuitously by boards of health, dispensaries, anti-tuberculosis associations, or philanthropic individuals or societies. Tuberculosis exhibitions for conveying knowledge upon the subject in a popular form have of late been instituted. Such an exhibition was recently held in Baltimore, lasting a week. Here were sections devoted to statistics; tenement

houses, sweat-shops, and factories; State and municipal prophylaxis; hospitals and sanatoria; pathological anatomy and bacteriology. Small groups from all classes of society—students, nurses, teachers, working-women's clubs, charitable societies and associations—were conducted through the exposition, and the various exhibits explained. Daily popular lectures were also given.

Similar exhibitions have been held in Moscow and St. Petersburg, and one is to take place in St. Louis during the Fair. In June of last year the International Tuberculosis Museum was opened in Berlin, "intended," as Dr. Kayserling says, "to be a popular object-lesson, and to represent one of the means for enlightening the people as to the nature of tuberculosis." There were divisions upon the history, prevalence, cause, prevention, and treatment of the disease, the whole subject being exhaustively portrayed in this way.

Another educational means is the use of the press, by popular articles in the daily and weekly papers and monthly magazines, such as the admirable article by Professor Fisher in the *Outlook* or those of Dr. Knopf in some of the New York daily papers. Reports of lectures upon tuberculosis, the transactions of anti-tuberculosis associations and other articles upon the subject in special publications, like *Charities*, the *Club Worker*, nurses' magazines, and the like,—all have an educational value.

Under Social are included all efforts towards the general betterment of the masses: the workingman; the tenement-house dweller; the factory operative; child-life. Indeed, the social condition of the individual has such a direct influence for or against one's receptivity to tuberculosis that it has been called a "social disease." The question of housing, overcrowding, intemperance, the feeding of infants and adults, wages and labor,—all have a more or less direct bearing upon the prevalence of tuberculosis. The decrease of the disease prior to the active warfare against it now in progress is undoubtedly largely due, as Hoffman says, to the improvement in the mode of life of the masses. By an amelioration of the conditions of their life they become more resistant to the disease; and, as the great Genoese investigator Maragliano has recently said,\* "the victims of tuberculosis will diminish in

\* *Medical News*, April 2, 1904.

number in proportion as the human organism is in condition to resist the disease."

As the modern surgeon now realizes that absolute cleanliness is really the cause of his marvellous results after operation, and that all his antiseptic precautions are only a means to this end, so in the ultimate analysis the social problem is the struggle towards cleanliness. Clean bodies, clean houses, clean workshops, clean air, clean water and food, and clean minds are the essential factors involved in the solution. Indeed, we even use the word as indicative of character; and the phrase, a "clean man," conveys a very fair estimate of the moral status of the individual.

Again, under Social may be included the various methods of relief and control of the poor tuberculous individual by frequent visitations at his home by visitors or nurses under the direction of anti-tuberculosis associations or dispensaries. Through this instrumentality the victim of the disease and his family are instructed as to the proper disposal of the sputum and the general care of the patient. Material aid in the form of food or other necessary articles is also furnished, when needed.

Anti-tuberculosis dispensaries previously referred to perform a very important social rôle as well as therapeutic. The consumptive who applies to such an institution is not only given medical care, but is kept under constant observation by the visitor or nurse. He is supplied with sputum receptacles, and generally guided in his plan of life, when possible. Opportunity for change of occupation, if considered desirable, or of residence, or entrance into a sanatorium or hospital, is provided for.

As it is the task of the engineers of an army to collect information regarding the enemy and to discover the topography of his country, so under the social side of the tuberculosis problem are the various statistical investigations regarding the disease and its social relations, such as has been so admirably made by Miss Lillian Brandt, the statistician of the Committee on the Prevention of Tuberculosis of the Charity Organization Society of New York. Such information enables one to prosecute the siege more intelligently, more effectively, and at more points of attack. "The struggle with tubercu-



losis," said M. Casimir Périer at the meeting of the Central International Tuberculosis Committee in Paris, last May, quoted by Miss Brandt, "is intimately bound up with the solution of the most complex economic problems; and no plans will be complete which have not for their basis the material and moral improvement of the people. The struggle with tuberculosis demands the mobilization of all social forces, public and private, official and voluntary."

*Isolation.*—Under this head are included all measures of prevention dependent upon the segregation of the tuberculous individual when he becomes dangerous to those about him through the dissemination of the infecting sputum. This is accomplished through the instrumentality of boards of health, sanatoria, consumptive hospitals, and various "Homes" or almshouses. In some countries, as Norway, for instance, and in many cities, compulsory notification of the disease is required by law, and the same authority can be exercised in dealing with it as with any of the other contagious diseases; that is, the government or board of health can remove a consumptive from his abode when, in their opinion, he is a menace to those about him. This usually happens in the later stages of the disease. Consumptive hospitals for advanced cases of consumption are sadly needed in our American cities; and it is one line of attack, and an exceedingly important one, to arouse public opinion, so that they will demand of the municipality the establishment of such institutions. It is no hardship to remove a poor consumptive to such a hospital, for he will receive far better care than is possible in his wretched abode.

Sanatoria also effect isolation, although their primary object is to cure. The workingman in the earlier stages of the disease, and still able to pursue his avocation, may be quite as dangerous to his fellow-workmen as the more advanced case. By his entrance into a sanatorium he obtains the benefits of treatment and has the chance of cure, while at the same time he is isolated. From obvious reasons, isolation at one's home is hardly practicable.

*Governmental.*—Whatever anti-tuberculosis regulations originate from or are executed by the authority of the government—central, State, or municipal—may be included under this

division. Such are compulsory notification already referred to; inspection and disinfection of infected abodes; free examination of sputum by State or city boards of health; ordinances against promiscuous spitting now in force in so many countries; sanatoria established and maintained by the government, as that of the United States Marine Hospital Service in New Mexico, and various similar State institutions, a most conspicuous example of which is the Massachusetts State Sanatorium at Rutland. When the government is paternal, other measures for the prevention and control of the disease emanate from the central authority; and many of the national associations for the prevention of tuberculosis receive the indorsement and enjoy the prestige of the ruler of the country in which they are situated. As in Germany and England,—indeed, in almost every country in Europe,—the rulers and government have shown themselves most intelligent and progressive in zealously supporting and aiding this great crusade, it is to be hoped that shortly a national association will arise in this country, with the approval and co-operation of our government.

Finally, under Medical or Curative are embraced all means instrumental in *curing* or *arresting* the disease, the chief of which is the modern sanatorium. As consumption is, for the most part, only curable in the early or incipient stage, only such cases are generally received into a sanatorium as appear susceptible of a cure or of such improvement as will enable them to again resume some occupation. The distinction between a sanatorium and a consumptive hospital is to be noted: the function of the former is to cure or improve, while that of the latter is to care for and isolate the hopeless cases.

The sanatorium treatment, also called the hygienic, dietetic, or open-air treatment, is based on the principle of increasing the resisting power of the consumptive to the tubercle bacillus. This, in brief, is accomplished by constant exposure to fresh air, abundant feeding, and mental and physical rest. Such treatment has been so pre-eminently successful that sanatoria are springing up all over the civilized world with amazing rapidity, as has been noted earlier in this paper. From present indications it will not be very long before every State in our own country will have one or more such establishments. It

has been determined from experience that it does not matter very much what the climate is where the sanatorium is situated, provided fresh, pure air is obtainable. Both private and governmental initiative or a combination of both is active in founding such beneficent curative institutions.

Incidentally, as has been referred to above, the sanatorium exercises a preventive influence of no small degree by isolating its patients. Another very valuable incidental influence of the sanatorium is the educational propaganda carried on by its graduates, or cured patients. As they return to their homes, they become apostles of fresh air and wholesome living to their less enlightened neighbors. This result of the sanatorium training has been strikingly exemplified in the State of Massachusetts.

In this connection I may again refer to the anti-tuberculosis dispensary as a curative instrument of no mean value. But comparatively few consumptives from the great mass of them can go to sanatoria,—for one reason or another they must remain at home; and these home consumptives the dispensary looks after. Through its visitors or trained nurses it keeps in constant touch with them, enables them to obtain proper food and fresh air by various expedients, such as sleeping on a piazza or an improvised platform, and by day in the open air in parks or roof gardens. Thus many economic cures at least are effected, and often while the patient, perforce, continues at his occupation.

In the foregoing I have briefly and imperfectly, it is true, considered the various lines of attack and the weapons at present in use in this great warfare; and it remains to forecast the probable results of the struggle. What of the future? Theoretically, consumption is a perfectly preventable disease; and I believe it will be proved to be practically so. If by the general improvement of the mode of life of the masses the mortality from tuberculosis has been so materially reduced in the past as it has in those countries where sanitary efficiency is high, it is reasonable to suppose that the continuation and increase of this general betterment of the masses, in conjunction with all these specific and special agencies now in operation, will cause the diminution of the disease to progress at a far greater rate from this time forward; and the evidence at hand corroborates this inference.

In Germany, if the decline in the mortality from tuberculosis continues at the same rate as at present, the disease will be exterminated in less than thirty years, and in England in about forty. The striking drop in the Prussian tuberculosis death-rate from 31 per 10,000 inhabitants in 1886 to 21 per 10,000 in 1900 is attributed to three causes: (a) the widespread knowledge as to the infectious character of tuberculosis; (b) the provision for a large number of sanatoria for the working classes; (c) the early and systematic resort to sanatoria which the workingmen's State Insurance Department in Germany encourages and assists. In Belgium the mortality, which in 1888 was 38.4 per 10,000 inhabitants, was reduced in eleven years to 24.5 per 10,000 in 1898,—a diminution of 36 per cent. In five Eastern States and ten other cities of the United States the mortality has been reduced from 27.2 per 10,000 in 1887 to 21.2 per 10,000 in 1900,—a diminution of 18 per cent. In Massachusetts from 1892 to 1902, a period of ten years, the diminution has been from 24.5 to 15.8, or a little over 35 per cent. In New York City the diminution from 1886 to 1901 has been more than 30 per cent.; and Dr. Biggs, of the Department of Health of that city, in quoting this diminution, says that it is his belief that with a complete and efficient scheme for dealing with tuberculosis, including suitable hospital accommodations and the proper enforcement of precautionary measures, the death-rate from tuberculous diseases in New York City may be further reduced one-third within a similar period, which would mean the saving of 3,000 lives annually.

It is to be borne in mind that the beginning of this rapid diminution is coincident with the diffusion of the knowledge of the present facts regarding tuberculosis, and when the special methods of fighting it were beginning to be operative. Koch discovered the bacillus in 1882, and in 1886 the results of the direct attack were beginning to be appreciable.

The process of civilization from a sanitary standpoint, at least, has been painful and costly; and it is still a debatable question in many minds whether the present manifestation of it is worth the cost. In its past, by its ignorance and filth, it has inflicted upon the human race many and frightful pestilences. By its increasing enlightenment in sanitary science

and preventive medicine it has shaken itself free from the majority of these enemies. Tuberculosis still remains to mock it with its ghastly smile. It is evident, however, from the present weighty movement in progress that there is a determination to fight it to the death. From the constant increase of anti-tuberculosis associations, the universal dissemination of the facts concerning the disease, the rapid increase of sanatoria, it is apparent that this great movement gains daily in momentum and power. The great awakening is at hand; and from every indication it seems destined to grow and grow until the final consummation is achieved, and the "captain of the men of death," this great white plague, is exterminated.

#### IV. DEPARTMENT OF EDUCATION AND ART.

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##### I. EDUCATION OF ADULTS.

BY HENRY M. LEIPZIGER, PH.D., OF NEW YORK CITY.

To speak in Boston, the home of the Lowell Institute and of the Lyceum, on the lecture as a means of adult education seems almost as unnecessary as to bring coal to Newcastle. But the expansion of the idea of the lyceum lecture—its combination with the idea of University Extension, and its introduction into the system of education of cities—justifies the consideration of this subject in this place and before this body.

With the spread of democratic ideas throughout the world the belief in the necessity of the extension of popular education is becoming not alone deeper, but more general. Not only republican America, but monarchical Europe, recognizes the power of public opinion; and this deference to public opinion is the triumph of democracy. How important it is that public opinion should be sound and sane, and that the democracy that exercises this power should wield it in obedience to lofty and pure motives! Hardly more than a century ago education was considered the privilege of the few. How marvellous the development during the past thirty years!—the rise and spread of the kindergarten, the increase in the number of secondary schools, the increase in the institutions for the liberal education of women, the State college and university, the spread of the free library, the museum of art and science, all having as their purpose—what? The emancipation of the individual man and woman, in order that he and she may be free!

In our great cities the extension of the public schools has been evidenced by the addition of the evening schools, both elementary and high, the use of the school-houses during the summer for what is known as vacation schools, and the opening of school-houses during the evenings throughout the entire year

for the purposes of recreation and refined play. Thus the school is becoming not only a place of instruction, but a place of general culture. It becomes, as it should be, a social centre. The extension of the use of the school in the ways I have mentioned provides for those about the school age, and their popular reception is an indication of the wisdom of their adoption. The meaning of the word "school" has, however, been revised. The question arises, Shall the education furnished by the State end with the university, or shall the State furnish opportunities for the continuance of education to those whose school life has been limited or who acquire in life a yearning for higher things? In other words, must we not more and more admit that man needs knowledge not alone as a means of livelihood, but as a means of life?

A librarian once told me that a young reader came into her library, and said he wished a book entitled "How to Get Educated and How to Stay So." He unconsciously spoke a great truth. It is one thing to get educated: it is another to stay so. The school gives the beginning of education. Provision for adult education is necessary to enable us to "stay so."

The Free Lecture movement is a provision for adult education that now forms an integral part of the educational system of New York City, and has won its way from small beginnings until it is now regarded by the tax-payer both as a necessity and as one of the most judicious of civic investments. Its success has been so genuine, its growth so steady; and a similar system is possible in each city of the land, so that the lecture system of New York may seem to mark the culmination of public school extension. Its underlying principle is that education shall be unending, that the adult's mind can be developed as well as the child's. The city's prosperity and progress depend to a large extent on the intellectual calibre of its citizens; and, as we have come to realize that the child is of supreme importance, so have we also arrived slowly to the conclusion that he who from necessity has remained in many respects a child in education needs also, and actually craves, the additional knowledge and education that the "free lectures" attempt to give.

Of the school population of our land about 3 per cent. attend the high schools, and less than 1½ per cent. the colleges,

universities, and professional schools. The great body of our citizens have but limited education; and the very persons best fitted to profit by education, and who need it most, are in most cases denied its beneficent influence. Two classes are especially in need of it. First, those between fourteen and twenty years, the time of adolescence, when conscience is disturbed, when character is being formed. At that time all the safeguards of true culture must be out around youth. Then there is that large class of mature people who have a knowledge of practical life who appreciate the value of education most keenly. It is from such a class that our students—I call them that rightly—of electricity, of physics, of history, are recruited. A lecturer on physics wrote to me the other day, "The questions put to me by hearers were, as a rule, more intelligent than are asked inside of many a college."

Fourteen years ago the Free Lecture movement in New York was tentatively begun in six school-houses. The total attendance was about 20,000. During the past season there were 143 places where systematic courses of lectures were given, and to the 4,665 lectures which were given by 450 lecturers there came an attendance of 1,134,000. This attendance is gratifying when one considers the unusual severity of the winter, besides other drawbacks to the gathering of large assemblies. The growth indicated by the figures which I have just quoted must lead to the conclusion that this democratic movement for adult education is appreciated by a constantly increasing body of our citizens. The large number who have attended this year prove that the appetite for instruction on the part of the people has not been appeased, but that, like all good things, appetite comes with eating. As a rule, we should not boast of mere bigness; but the fact that in the city of New York, including, as it does, all sorts and conditions of men and women, so large a number of persons, many of them old, wend their way, and in many instances climb toilsome flights of stairs, to the halls of instruction, is an admirable sign of the times. What is the magic power that draws to these halls,—some of them far from comfortable,—no matter what the weather, so many earnest listeners? The answer is that the good sense of our common people is truly appreciative of the best that the teacher can



give, and in these courses it has been the endeavor to give the people the best available from the staff of lecturers at our command. Some have doubted whether the people truly appreciate the best, but we have no such doubts. When Sir Richard Wallace's pictures were being exhibited at Bethnal Green, the poor part of London, after people had said that the workers had no soul for art and would not appreciate its treasures, a story is told of a woman, in very poor clothes, gazing intently at a picture of Madonna and Child, and then exclaiming, "Who would not try to be a good woman who had such a child as this!" We have not yet properly tested what the people are capable of appreciating.

I think it can be safely said that the movement for adult education, popularly known as the Free Lectures, is no longer an experiment. It is recognized in the charter as an integral part of the educational system of the city of New York. Its righteous claim to be considered such is shown by the constant endeavors to systematically organize the instruction. In the first years of the lecture course the lectures were not organized as consecutively as they are now. We know now definitely what our aim is. A passenger on the Elevated Railroad in Boston, somewhat the worse for drink, was carried around the entire system twice, not knowing where to disembark. Finally, the conductor said to him, "At what station do you want to get off?" The man roused himself sufficiently to say, "What stations have you got?" Some years ago we were in doubt as to what our stations were. Now we have found our definite station; and the definite purpose is to arrange these courses of lectures systematically, to stimulate study, to co-operate with the Public Library, to encourage discussion, to bring, in other words, the best methods of the best teachers to bear upon this great problem of the diffusion of culture among all the citizens of a great city. Has this been done during the past year? 160 courses of lectures, averaging six lectures in each course, have been given, and the majority of these courses by professors and teachers in our universities. Thus we have University Extension realized on a large scale. Eighteen courses of lectures on "First Aid to the Injured" were given, examinations held, and certificates awarded. To co-operate with the Department of

Health, in thirty-four places lectures on the prevention of consumption were given by reputable physicians, so that the themes that have instructed our audiences have been, first, facts concerning the body and its care. Then the great phenomena of natural science have been explained,—how steam has been harnessed, how electricity is put to man's service, how the stars move in their courses. The whole world has been travelled o'er. Starting from our own city, the great natural beauties of our land have been described. Every country on the globe, from Greenland's icy mountains to India's coral strand, has been described by travellers who have visited these lands and braved dangers for our instruction. The development of citizenship has been fostered by scholarly treatment of the great epochs in our national history and the study of the makers of our national life; and, to give a wider outlook, epochs in general history have been boldly outlined. For the history of the world is one great drama, and all its acts form part of one stupendous whole. Music, painting, and other forms of art have been presented to the people, and courses on the education and training of children, as well as municipal progress, have been listened to by eager auditors; for the purpose, as stated before, is to aid the joy and value of human life by diffusing among the mass of our citizens what some one has well called race knowledge.

The level of our citizenship depends upon the quantity of race knowledge which is made a concrete part of our social environment. It has been my privilege to receive year by year appreciative letters from both lecturers and auditors, the lecturer emphasizing the value of the experience in his own growth and power, the auditors telling of the inspiration and the stimulus derived from the lectures. Some one has said that two classes have most to do with forming public opinion,—editors and university teachers: it is they who instruct and stimulate the rest of the people. I would add to the editors and university teachers "and lecturers." For it is a fact, as Mr. Bryce has said, that since the death of Lincoln, America has been generally more influenced by her writers, thinkers, and preachers than by her statesmen.

I quote only one or two sentences from some of the letters. A parent writes: "Education, as I understand it, is not alone

for the youth, but equally necessary for their parents. The example of parents continuing their studies must be an incentive to the children." Another writes, "I have joined a library since hearing these lectures, and have read up the subjects well." An indignant citizen writes: "The talk of curtailing the free lectures has aroused quite a feeling. I do not believe that there is any other single feature in the scheme of education of this city more productive of good results than these lectures." Another writes, "I can truly say that Shakespeare has been a sealed book to me until I began reading his plays after having the characters fully explained by the lecturers." A lady writes: "To me the lectures are a stimulus to read above the daily newspapers and current fiction. At present I am reading the Iliad as the result of Professor Lawton's course on Homer." Hundreds of others I have received.

To some these lectures have proven the only bright spot in a cheerless existence, to others they have proven social features. Others have been greatly refined through their influence. After the lecture many have crowded around the lecturer for further information, and upon reaching their homes their conversation has not been the tittle-tattle of every-day life, but about Shakespeare or Lincoln or the arctic explorations or the wonders of electricity. An interest in higher things is thus gradually developed. Many a mind has been stirred from its lethargy; and the lecturers have appealed to all classes of our citizens,—the dweller in the tenement house or in the single house,—for their message is to rich and poor, man and woman, young and old, educated and uneducated. In this great scheme provision is made for all. They have stimulated an interest in education. They show the parents what a valuable thing education is, and the parents become attached to the school. They are social solvents. For the school is the safeguard of democracy; and at these lectures the laborer and the employer, the professional man and the mechanic, alike attend. So that the interest in higher things is not confined to the college graduate or to the male sex or to the well-to-do, but more has been done; for these lectures have been to many voices in the wilderness giving aid and comfort to many an aspiring soul and revealing to it its own strength, for many a poorly dressed young

man may have in him the germ of gifts which it would be well to add to the treasury of noble deeds. In that great storm of terror that prevailed in France in 1793 a certain man, who hourly expected to be led to death, uttered this memorable sentence: "At this dire moment," he said, "when mortality, enlightenment, love of country, all of them, only make death more certain,—yes, on the fatal tumbril itself,—with nothing free but my voice, I would still cry, 'Take care,' to a child that would come too near the wheel. Perhaps I may save his life. Perhaps he may one day save his country."

Summarizing again the aims of the movement as illustrated by our work, I would say that it is to afford to as many as possible the fruits of a liberal education, to make education a life purpose, and to apply the best methods of study to the problems of daily life, so as to create in our citizens a sound public opinion. Let it never be forgotten that the higher education reaches but a small proportion of the body of our citizens. A recent report of the Commissioner of Education says that only a little over 1 per cent. attend the colleges and universities of the land. And when it is remembered that a million and a half men, according to the last census, of voting age, were unable to read or write,—that is, 11 per cent. of the total number,—it will be seen how important the continuance of education is in a country whose government is determined by popular suffrage. And the greater portion of this illiteracy, let it be borne in mind, is among persons not of foreign parentage. The percentage of illiteracy among the foreign-born is large, but among the native-born of foreign parents it is smaller than among those of native parents. And this leads me to refer to the addition to our courses in the shape of lectures in foreign languages to recently arrived immigrants. Nothing is more illustrative of the hospitality of our city than is this provision for the acquaintanceship of future citizens at the earliest possible moment with the history of our institutions and the laws of civic well-being.

The lectures are illustrated largely by the stereopticon, and this teaching to the eye has proven a most effective means of popularizing knowledge and retaining interest. Mere speech is no longer sufficient; the actual things talked about must be shown on the screen. In scientific lectures abundant

experiments accompany the lecture, and the interest in scientific subjects can be illustrated by the fact that a course of eight lectures on "Heat as a Mode of Motion" in the Great Hall of Cooper Union attracted an average audience of 1,000 at each lecture. The lecture was followed by a quiz class which lasted about an hour, and serious reading of such a book as Tyndall's "Heat as a Mode of Motion" was done by many of the auditors. Special attention is paid to instruction in American History and Civics. On the birthdays of great Americans, in several portions of the city the lives of these eminent characters form the subject of the lecture; and during the past year, in order to help in the assimilation of the newly arrived foreigner, lectures have been given in Italian and in Yiddish on subjects that relate to sanitation and to the preparation for American citizenship, and it is pleasing to record that these lectures have been among the best attended of the series.

The lecturers are recruited from the very best educators available. Our lecturers include the professors in our universities, the traveller, the journalist, the physician, the clergyman,—in fact, any one who has knowledge to impart, the desire to impart it, and the power to do so; and the fine spirit that characterizes our teaching force is worthy of emulation by all who are engaged in the noble work of education. It seems to me that no more honorable and perhaps more difficult task can be placed in the hands of a teacher, who stands before audiences such as gather in our school-houses and halls; for I know of no more sacred task than that of a teacher in a democracy, organizing, as he does, public opinion, directing reading, and inspiring for the higher life. "The ideal teacher in a scheme of adult education," as some one says, "must combine with the university professor's knowledge the novelist's versatility, the actor's elocution, the poet's imagination, and the preacher's fervor."

Adult education as practised in New York combines the best elements of University Extension, and reaches the working-people of the city. It has been the means of realizing the belief that scholarship must go hand in hand with service, and that the duty of the university to the city and the State is to lift up our citizens to higher ideals.

The influence of the lectures on general reading is illustrated by the report from one free library, concerning which the librarian writes: "The register shows an increase of 321 members during the course of the winter lecture season, of which the larger portion constituted those who had first heard of the library in the lecture hall. As a result, the people select their books with more care and forethought, having something definite to ask for and on a subject in which their interest was aroused. A stimulus was created which led to more intelligent reading. You cannot expect all people to appreciate and thoroughly enjoy a book until they know something akin to that subject and until their enthusiasm has been aroused. This is what I feel the lectures are doing for those who have not had a school course." The platform library forms an integral part of the lecture movement. As the libraries do not possess sufficient duplicate copies of any particular book, there are loaned out to those who attend courses the leading books that are mentioned on the syllabus which is distributed with each course of lectures; and the circulation of these books bespeaks the intelligent pursuit of the subject in hand.

The movement for adult education not alone gives a new interpretation to education and the teacher, but a new type of school-house must come into being,—a school-house which is to be open not for a few hours daily, but at all times, and to be a place not alone for the instruction of children, but for the education of men and women, so that there should be in each modern school-house a proper auditorium, with seats for adults, and equipped with apparatus for scientific lectures and for proper means of illustration. The newer school-houses built in our city contain such auditoriums; and the extension of the school for these varied purposes makes the school-house what it really should be,—a social centre, the real, genuine, democratic neighborhood house. That we are approaching such an ideal may be inferred from the fact that some of the school-houses in the crowded districts are open on Sunday. If the museum and the library are open on Sunday, why should not the school-house, too, be open on Sunday afternoon, and in its main hall the people be gathered to listen to an uplifting address of a biographical, historical, or ethical

nature? Why should not the school-house represent all that is best in the social settlement, and why should not every man and woman engaged in the work of public education be fired with the same spirit which is said to animate the settlement worker? It seems to me the tendency should be to include in public education all that is best in the movements of philanthropy which mark our time. The interest of churches and philanthropic societies in our work is shown by the constant offering of church and other halls gratuitously for Board of Education lectures. The Church surely approves of spreading the gospel, "Let there be light."

The unification of a great city is furthered by a system of public lectures. It is not brought about by the mere building of bridges. In a great city, neighborliness often does not prevail, but community of ideas brings people together; and, when last year it was resolved to celebrate the 250th anniversary of the founding of New York as a municipality, it was celebrated not by a military parade or a monster banquet, but by a series of illustrated lectures and open-air exhibitions on the great development of New York City. About 100 such lectures were given, illustrating the history of the city of New York, 30 of them in public parks. As New York is the pioneer in this work of adult education, so is she the pioneer in this peaceful method of civic celebration.

The provision for adult education emphasizes the fact which now more than ever should be emphasized in our American life, that men are not old at forty. In reading the *Life of Gladstone* and of his rival, *Disraeli*, it appears that both of them did some of their best work after seventy years were passed, and that best work was due to the fact that during their whole life they continued their habit of study. And, now that we believe that the ardent desire for knowledge is most appreciated by the mature, we feel that this provision for adult education is among the wisest steps that the Board of Education of any city in the world has ever undertaken. In the recently issued report of the *Mosely Commission* it is said that these lectures form one of the best educational efforts of the public-spirited Board of Education of the city of New York.

Summing up the value of this movement, it may be said

that it has broadened the meaning of education, and forms a continuation school in the best sense. It reaches all classes of society, for the audiences are truly democratic. It brings culture in touch with the uncultured, it gives a new meaning to the uses and possibilities of the school-house, and not alone adds to the stock of information of the people, but furnishes them with ideas. In these days of shorter hours and larger opportunities the toilers will find in adult education the stimulus for the gratification of their intellectual desires, and a larger world is given them in which to live. The best characters in literature will influence them, their daily labor will be dignified, new joy will come into their lives from this association with science and literature and art; and they will find that true happiness does not come from wealth, but from sympathy with the best things in art and with the love of nature. We who are engaged in this work are imperialists; but our empire is the empire of the mind, for we believe that it is the mind makes the body rich. We are expansionists; but we desire not the addition of territorial possession, but the expansion of opportunity for all men to live the true life. We believe in the open door, but it is the open door to the school-house to which we refer. We would make it not alone a nursery for children, but a place of intelligent resort for men. And we are democrats in believing with our honored President that, though education has never saved a nation, no nation can be saved without it. To all the cities of our land the same opportunity for the adoption of this system of adult education is open as it is to New York.



## 2. EXTENSION OF EDUCATION TO ADULTS: HOW ADULT EDUCATION IS BEING FURTHERED BY THE WORK OF THE AMERICAN MUSEUM OF NATURAL HISTORY.\*

BY DR. HERMON C. BUMPUS, DIRECTOR OF THE AMERICAN MUSEUM OF NATURAL HISTORY, NEW YORK CITY.

For the youth, education is compulsory: for the adult, it is elective; and the differences that prevail in our universities between compulsory and elective courses (the attitude of the student toward the teacher and of the teacher toward the student) are closely akin to the differences that must ever prevail between educational methods designed for the youth and those designed for the adult.

The adult must be attracted to an educational source: he seldom seeks it. This has been discovered by the various publishing houses, tourist agencies, and lecture bureaus. Having reached the source, he is discriminative: he will neither remain nor come again if he is not satisfied; but, unfortunately, his satisfaction does not always result from the pleasurable sensations that accompany *instruction*. Quite as frequently he may derive satisfaction from indulgence in those pleasurable sensations that accompany mere *entertainment*. Thus the number that may attend a lecture or visit a quasi-educational institution is not an index of educational work done. The most popular professor is not always the one giving the highest grade of instruction; and in museum work as in university work we should strive for quality rather than for quantity.

Apart from that general and indefinable educational influence that the mere presence of any institution exerts upon the people in its neighborhood, the American Museum of Natural History acknowledges (in its co-operation with the Board of Education of the city of New York through Dr. Henry M. Leipziger, with the State Department of Public Instruc-

\*This paper was fully illustrated by lantern slides, mention of which is made along the margin of this text.

General  
view of  
American  
Museum of  
Natural  
History.

An Exhibi-  
tion Hall.

An  
attractive  
exhibition.

The Lecture  
Hall.

tion, and through the activities of the members of its own scientific staff) that the lecture hall, as a part of its educational equipment, is 'a most potent factor,—a factor that strangely the directors of many museums have not discovered, but the presence and use of which transforms a place too often looked upon as an asylum for dead things, and for the idle wanderings of the mentally fatigued, to a place of living ideas and intellectual profit.

The  
Mexican  
Hall.

Through the co-operation just mentioned, on Tuesday and Saturday evenings during the fall, winter, and spring, on Saturday mornings, and on all public holidays, lectures on various subjects of natural science are here given to adults. To say that the hall is frequently filled gives the impression of quantity; but, should we mention the names of the lecturers, you would perceive that the people gather to listen to speakers that are something more than entertaining.

Visitors  
leaving the  
Lecture  
Hall.

Biological science has well established the fact that, as certainly as animals tend to gather around a fixed type, just so certainly do certain individual animals depart from that type. While a large number of adult men may gather to the allurements of the lecture hall, there is nevertheless a large number that do not respond to this particular form of attraction. In short, some people do not enjoy listening to others: they prefer to observe for themselves; and it is largely for these, as well as for teachers and pupils, that the city of New York is glad to co-operate with the trustees of the Museum and to appropriate generously toward the maintenance of this institution. Were the American Museum a mere storage place for the ghastly products of the taxidermist's so-called art, for the rejecta of government exhibits, a plant for the retardation of the natural and often most beneficent processes of decay, or a final repository for those more enduring objects of stone and clay that short-sighted man has so often removed from their natural environment,—were the Museum really this, I should feel obliged to advise the trustees that it was not worth their support; and most certainly it would be a difficult task to argue, "How Adult Education might be furthered thereby."

Visitors  
studying  
specimens.

Happily, however, it has been the purpose of the Museum to divest itself of tradition, and to postpone the collecting

Eruption of  
Mt. Pelée.

of specimens until it could first collect facts. Thus, at the report of volcanic disturbances in the Lesser Antilles, the geologist of the Museum, Dr. E. O. Hovey, was immediately despatched to Martinique with instructions to collect facts and with permission to announce these facts *for the education of adults* through any channel that he might elect. I think I am right when I state that his report as published in the *New York Herald* was the first thoroughly trustworthy scientific account of the disaster that reached the public. Is authoritative publication not as much the function of a museum as the exhibition of specimens? Later on, when Mont Pelée was reported as being again restless, our representative was again despatched; and the Museum is now distributing to the leading educational institutions of the world transparencies illustrating the ejection by the mountain of this stupendous obelisk of volcanic rock, a mountain in itself, ascending in a few weeks' time to an elevation more than a thousand feet above the crater, and then crumbling away in a mass of débris.

The "spine"  
of Mt. Pelée.

Map of  
Eastern  
Asia,  
Western  
America.

For years historians and men of science have discussed the possible relations existing between the early inhabitants of America and various east Asiatic tribes. An occasional find of jade, the discovery of a peculiar boat, a supposed physical or linguistic resemblance between the natives of Alaska and Siberia, have been brought forward in evidence. President Jesup, perceiving that facts rather than theories were necessary for the solution of this problem, and knowing the interest that adults would take in the matter, sent an expedition—nay, sent a score of expeditions—along the east and west coasts of the north Pacific, first, to collect facts, and, second, to collect material.

The publication of the results of the Jesup North Pacific Expedition has preceded the installation of the specimens for the very reason that the display of these specimens without the facts would merely satisfy idle curiosity; and an institution given over to this can in no sense be considered educational. Moreover, it is the printed matter that accompanies the specimens (I do not mean "labels," but I do mean full and complete information) that gives a museum the right to use the adjective "educational." Here, for example, are

two kayaks, one from Siberia, the other from the Eskimo of America. They are of the same pattern, and indicate that Asiatic tribes must have come in contact with the American Eskimo. The harpoons of the two people are of the same type, and the basketry of the Indians of British Columbia and Alaska is strikingly like that of the tribes of Siberia.

Kayaks.

Harpoons.

Baskets.

If time permitted, I might describe the field-work of Chapman, now in the Bahamas, of Laufer in China, of Pepper among the Indians of the South-west, of Batty in Mexico, of Smith in British Columbia, of Stone in Alaska, and of Brown in Patagonia.

Birds being studied in the field.

Indians of South-west. Scene in British Columbia.

And now, if you please, an example of how descriptive matter may change that which merely astounds into that which becomes a potent educational agent. Were this cross-section of the big tree merely marked *Sequoia gigantea*, it would have some educational value, of about the same quality and quantity that would attach to the exhibition of a giant at an ordinary circus. This specimen, however, performs a deal of silent teaching. The visitor is told that the tree was cut down in 1892, that the yearly growth appears as a series of concentric rings, and that by counting the rings from the periphery to the centre we find that the tree was a seedling in the sixth century (550 A.D.). The respective centuries of growth are indicated by the small black cards, and important historical events, in proper sequence, are indicated by labels as seen along the upper row.

Photograph of Big Tree.

The lower labels, at the left, give the names and time of eminent men of science, the establishment of various scientific schools, the issue of important scientific announcements, and the publication of the results of scientific expeditions. This is not all. A guide leaflet hangs near by, giving on twenty-eight pages a description of all, and, incidentally, a brief history of biology. The fact that the pamphlet, like many others in the Museum, is not *abused*, but is literally worn out by *good* use, so that it must be replaced frequently, is a sufficient index that the efforts of the Museum to educate the adult are appreciated.

Guide leaflet.

The adult is more interested in matters of *current* interest, the child in *past* events. Thus an exhibit illustrating the depredations of the cotton boll weevil will attract and

Exhibit of cotton boll weevil.

instruct a hundred adults, while it is not noticed by the average child.

Relief map  
of Japan,  
Korea, and  
Manchuria.

We have been censured for preparing a large relief map of Japan, Korea, and Manchuria, placing this in one of our Exhibition Halls, and indicating thereon from day to day the movements of the contending races. It is said that this is foreign to the function of a Museum of Natural History; but, pray, what public institution *should* provide accurate information respecting the passable and impassable barriers of ocean, mountain, and river that characterize this area? Is it true that science is to deal with man *not* in the historic, but only in the prehistoric?

Four-toed  
horse.

Any particular event that draws people to the metropolis can be used as a means for wholesome instruction. The time of the Horse Show is the time to make a special exhibit of the series of prehistoric animals, leading up to the single-fingered, single-toed horse of to-day. It pays to remove zebras, quaggas, asses, etc., from their cases, to place them in a single hall by themselves, and to prepare descriptive matter for the particular class of transient visitors that will come to the city at this time. The newspapers willingly co-operate in all such work, and extend your plan of instruction. At Christmas time we have arranged special exhibits of reindeer, and at Thanksgiving time the varieties of the Mexican bird that at the Conquest was thought by the Europeans to come from India, and that later the New Englanders thought to come from Turkey. The periodic exhibition of new material, or of old material readapted, does much to correct the impression, by far too prevalent, that there is no profit in visiting a museum more than once.

Zebra.

Wild ass.

Reindeer of  
Siberia.

Wild turkey.

Books in  
Exhibition  
Halls.

The popular magazines frequently contain articles, well written and often richly illustrated, upon various outdoor subjects. The editors of these magazines are distributing information about natural phenomena which is prepared in a most attractive form,—so attractive, indeed, that it pays to remove such articles bodily and have the binder put them into covers, when they are placed in the Exhibition Halls, near appropriate material. It was predicted that books unwatched would soon disappear, but really the loss is so small that it is negligible.

To reach and satisfy the attention of the adult, the Museum has discouraged the printing of guides; that is, the printing of mere invoices. It is felt that much more can be accomplished by the publication of readable treatises upon certain general themes than by the *tabulation* of objects displayed. Thus a publication on the local butterflies, illustrated by certain Museum specimens, becomes useful not to the visitor alone, but for all interested in the territory around New York. Indeed, I believe this publication would find general use here in New England. In the same way a so-called guide leaflet on "The Musical Instruments of the Incas" might be read as profitably at the home as at the Museum. We have orders from various parts of the country for copies of these publications. Ultimately a wide range of scientific subjects will be covered by these publications.

Photo of  
guide  
leaflets.

On the return to the Museum of the various field parties large collections of photographic negatives, often from remote localities, come into our possession; and it is here again that the Museum attempts to reach the adult. Prints, issued gratis by the Museum, of the country around Vladivostok, of groups of Koreans and Japanese life, and of various Russian tribes, have been used extensively by the illustrated papers of America and Europe. Should there be trouble between Brazil and Peru, we could supply, on very short notice, a series of authoritative illustrations of the territory in dispute; and the same would hold true for many other countries. Is this not the extension of education to the adult?

Photograph  
of Album  
Room.

View of  
Andes.

From year to year there have been accumulated at the Museum many thousands of lantern slides covering a wide range of subjects, but lying idle, of course, the greater part of the time. Within a few months these have been reassembled, and the Museum offers to any organization that is designed to improve the condition of man (1) the use of one of its lecture halls, (2) the use of a stereopticon and operator, (3) the use of any slides that may be selected (at times we have made new ones gratis), (4) if required, the services of a lecturer. On this plan a person interested in some social organization may invite, for example, the employees of a cotton mill to visit the Museum, either on an afternoon or evening as may suit their convenience. They will find an intelligent

Photograph  
of Slide  
Room.

A cotton  
field.

attendant awaiting their arrival, they will spend a little time in such parts of the building as may especially interest them, and, finally, they will sit down to an illustrated lecture on the cotton industries or such other subject as may be selected by their leader.

A messenger  
leaving the  
Museum  
with  
collections.

In any large museum there is an enormous accumulation of duplicate material too poor to display and apparently too good to throw away. The Museum has made an effort to find some work for these idle things to do, and we are not quite sure but that this work is now more important than that performed by regular exhibition material. These duplicates have led us to announce that the Museum is prepared to issue (through its own messengers) a number of small collections, for example:—

A circulating  
collection  
box.

A few of the Native Birds of Winter.  
Common Minerals and Rocks.  
A few typical Insects.  
The Starfish and its Relatives.  
The Every-day Life of the Aztecs.  
Our Common Mollusks.  
The Native Squirrels.  
The Birds of Spring.

A circulating  
collection.

The demand for these collections on the part of the public schools (over one hundred are now distributed in various parts of the city) has been such as to prevent, until now, the extension of the work to the many and various organizations and institutions designed to put adults in the way of improving themselves. But the methods that we have adopted for schools may be adapted easily to institutions, factories, and organizations.

The collections are no longer made up from duplicate material. The demand is such that we are obliged to purchase much that is wanted, and we strive to meet the needs of each particular case. We have frequently temporarily drawn on our regular exhibition material, feeling that a special *expressed* need of a smaller number is worth more than a generally *implied* need of the mass. Many of the collections now in circulation could not be improved, were they designed for adults. The group of spring birds, for example, with its descriptive labels, would doubtless be acceptable in almost

any place of gathering. May I read some of the descriptive matter that accompanies one of the collections?

Soon (at the time of the closing of the schools) we plan to change the character of the collections, adapting some of them more to the special needs of adults. Collections illustrating the process of coal formation, the process of combustion, the behavior of bacteria, and many similar exhibits, at once suggest themselves. The fact that the specimens are loaned, and for a period only, adds to their educational value. If I wished my neighbor to read a book, I should loan, not give it to him. Moreover, a collection *circulating* goes to far more than would come to it. Twelve different collections, if circulating, will reach twelve times twelve. The circulation, moreover, brings the Museum's agents (men trained for the work) immediately and frequently in touch with the people we wish to meet and of whom we wish to learn; and we feel that every specimen loaned is an invitation in itself to the one seeing it to visit the Museum.

I am not at all sure but that small instructive and frequently renewed exhibits placed in railway stations, hotel corridors, and other places of enforced leisure, would prove instrumental in conveying information to a class that at present is reached in no other way. I am sorry to have not had an opportunity of testing this phase of educational work before meeting you, but it may be thought worthy of attention at some subsequent session.

A fitting  
exhibit.



### 3. ADULT EDUCATION.

BY MELVIL DEWEY, DIRECTOR NEW YORK STATE LIBRARY.

Twenty-eight years ago I spoke several times in this hall on topics closely allied to what our programme to-day calls "Adult Education." I recognize several faces to-day of those who remember how heretical some of those views were esteemed. Till recent years it was the fashion for the established colleges and universities to sneer at the efforts to popularize higher education. Most of them self-complacently assumed that one must be a charlatan or at least impracticable if he dared to try to give to those outside college walls a share of the knowledge and culture of which they were the recognized custodians. But the world moves. It was to me a great delight to hear this morning the greatest person who has ever guided the greatest of our American universities say so plainly how much Harvard is interested in these modern efforts in behalf of adult education. I came to-day to tell you very briefly something of our New York plans. To those interested it will be a pleasure to send our fuller printed information.

I am director of the first regularly organized State department devoted to the interests of adult or, as we prefer to call it, home education. Fifteen years ago, on taking office as the executive officer for higher and secondary education in New York, my first work was to repeal eighty-seven laws extending back over a century and to rewrite in a single law what we think a better conception of the State's relation to education. In it we recognize more fully than has been done by any other State or nation, and yet not as fully as should now be done, the fact that education is in two parts, each equally deserving the fostering care and liberal support of the State. School education has five distinct divisions: elementary, including kindergarten, primary and grammar school; secondary, including high schools and academies; college; professional and technical schools; university. The first three are for general education, regardless of the specific career of

the student. The professional and technical schools train for particular callings. The university as the crown of the system we define as follows:—

“Universities” are endowed and chartered institutions with examining and degree-conferring powers, which give courses leading to higher degrees in the general or philosophic faculty and in not less than three special schools, and which have faculties, libraries, museums, laboratories, and other equipment and facilities adequate for specialized instruction of students prepared by previous college training, and for conserving, advancing, and disseminating knowledge of the liberal arts and sciences by research and publication.

America has spent countless millions on these five kinds of schools, and is each year wisely spending more liberally, because they have returned many-fold their cost, whether we consider it on the side of material prosperity or on the higher planes. But only a pitifully small per cent. of our children get beyond the elementary schools. Vastly smaller is the portion that reach any of the higher institutions. But we know that knowledge is power; that all civilization bases its success on the cumulative wisdom that is preserved and passed on in print; that it pays better than any other investment to disseminate the knowledge, the information, which increases material prosperity; and that it pays still better to give the inspiration which is less tangible, but more valuable, and builds the character which makes men and nations great. The schools are distinguished by the fact that their students find attendance on the school their major occupation in life. We are facing the problem of how to give information and inspiration to the larger class that are compelled to earn their living and of necessity must make education their minor, not their major concern, and get what they can in evenings and holidays. Eight words sum up my credo, “Higher education for adults, at home, through life.” The civilized world has conceded that elementary education belongs to every child born into it. The new thought is that higher education as well is his birthright. The schools were chiefly for the young. The new education is for young and old alike. Its distinguishing feature is that it is given to those who are not in school, but at home, and that it lasts not for a limited course in youth, but all through life.

My chief thought to lay before you is the danger of seeing only one side of this large question. It is natural that each man who discusses it from the standpoint of a specialist shall think of his spoke as constituting the whole wheel, and assume that adult education is to be promoted by the one method with which he is specially connected. If a school man, he will think of summer, evening, and vacation schools, or will have the broader idea of teaching by correspondence. If a librarian, the reading of books is his panacea for all evils. If an artist, pictures, statuary, beautiful gardens, are the good things he urges on us as the great need for disseminating culture. If a scientist, the laboratory and museum, with all the lessons they have to teach, are put before us with glowing colors. The lecturer will tell us of the enthusiasm aroused, the stimulus for reading and thought, and is satisfied that adult education lies in a great system of popular lectures. In New York we have developed in the last ten years a wonderful work in study clubs. We have over six hundred scattered through the State, registered as doing ten or more consecutive weeks of systematic study on some worthy subject, and therefore counted by us as part of the State's educational machinery. There is a wonderful field for adult education which has been little worked in this direction. The advocates of all these measures are right; but we should fuse them together, and recognize home education as taking its equal place beside school education. It curiously is, like the other, in five distinct divisions: libraries, museums, study clubs, extension teaching, tests and credentials. Libraries include not only reference, lending, and newspaper departments, but also all reading of the conventional symbols which we call print. Museums include not only galleries of painting and statuary, or collections of scientific specimens or articles of historic interest, but all the help that comes from reading the natural language without the intervention of conventional symbols. A piece of statuary in a public park belongs as much in this museum group as if under a roof, and the park itself is perhaps a finer work of art than the picture in the gallery. Clubs include the whole field of mutual help where two or more with a common purpose come together, and by a subtle mental chemistry think and say things in company

which would never come to them alone. It covers not only the registered study club, as in our State system, but reading circles, debating societies, and all these agencies for mutual help. Extension teaching includes university extension courses, lectures, summer, vacation, and evening schools, private classes, correspondence teaching, and every agency where a leader helps on the student outside the regular schools. Remembering that the hundreds of thousands of sermons delivered weekly are in this group, it must be placed next in importance to the influence easily first; which is reading. The fifth and least important division of home education is the tests and credentials found necessary the world over for a majority of people, if they are to be kept up to systematic, continuous work,—a kind of intellectual yardstick that measures how much they have done, full of evils and dangers, and yet indispensable.

For fifteen years we have found this classification to cover the whole field exhaustively. The library is first, most important, and the natural centre round which the rest group themselves. It is here we must look for the development of this supremely important subject. I speak not as a librarian, but from the standpoint of education. No movement in human interest has met with such a wide-spread commendation, so little opposition, so liberal State and general appropriations, so favorable legislation, so munificent private gifts. The danger is in narrowing the work of the library to fit its etymology. In the minds of the ablest leaders it is no longer merely a question of books and reading, but the library is the home for museum, study club, extension teaching, and all phases of home education. Every self-respecting community has a school as the first essential of its community life. In this State, as nowhere else on the planet, the time has come when every community has a library as much as it has a post-office, a school, and a church. The idea is spreading with great rapidity. My message to-day to those interested in adult education is this. Recognize its fivefold character and its essential unity. Avoid duplicating agencies, as it divides strength and increases expenses. Support local public libraries more and more liberally, and help on the growth which is step by step following exactly in the track of the pub-

lic school development of this country. Broaden the conceptions of what the library means, and settle the rival claims for different methods of adult education by adopting all, with the library as the best and most economical administrative centre, and then using in each community or for each family the method that then, there, and to it will bring the best results.

## APPENDIX.

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### THE TENDENCY OF MANUFACTURING AND OTHER ARTS TOWARD INDIVIDUALISM RATHER THAN COLLECTIVISM.

BY EDWARD ATKINSON, SC.D. OF BOSTON, MASS.

In dealing with a subject that will require the application of statistics, I will say at the beginning that I fully comprehend the danger of averages covering great numbers, and especially the danger of per capita computations; but I also fully comprehend the danger in dealing with aggregates and with the huge figures in which the national census is summarized. Both methods are necessary to any deductions from census figures; but both methods must, when possible, be qualified by personal knowledge of the leading facts in relation to the arts and industries which are to be treated.

One word upon the danger of aggregates. The national census of manufactures shows a vast increase in the alleged aggregate value between the dates 1880, 1890, and 1900, or any earlier date. Many political speeches have been made, illustrated by these figures. They are paraded by the advocates of high tariff in proof of great prosperity, which they attribute to the system of high protection. In point of fact, these comparisons are worthless; and yet the census of manufactures is of the greatest possible value to any real student of statistical science. The reason why the aggregate value of manufactures of the United States listed in 1900 at over thirteen billions of dollars (\$13,000,000,000) is worthless, either in itself or for comparison with previous periods, is due to the duplications and triplications of the same subject. Under the head of "Textiles," the value of Cloth appears; under the head of "Clothing," the Cloth is repeated. The

list is full of repetitions of the same subject in various forms, but at the gross value of each particular form.\*

Another reason why the compilation is worthless even for comparison with any previous period, although both may appear to be in the same form, is that arts are brought in to the later compilations that were not computed in the earlier.

And, again, arts, like meat packing, now counting in hundreds of millions, hardly existed twenty (20) years ago, when butchering and its product were not included. It follows that every one of these tables must be used with careful judgment and full knowledge of the subjects.

Again, in the valuation of capital, Real Estate and Buildings are given in one column, Machinery and Tools in another, and the Quick or Active Capital in the third. For reasons given by the superintendent the estimate of Real Estate and Buildings is practically worthless. Many Arts are conducted in leased buildings of which no valuation was made. The estimate of Quick Capital, Stocks on Hand, and the like, and Cash used in the business vary season by season, and are

\*One of the most conspicuous instances of this misuse of statistics has been presented in a recent speech of the Secretary of the Treasury, Mr. Shaw.

After carefully avoiding duplications of the products of the farm, he proves that these products, omitting grain fed to animals, amount to four thousand million dollars (\$4,000,000,000). But the animals fed on grain are as much a farm product as the grain, and, if the product of the great meat-packing and canning factories is added to his estimate, it raises it to at least five thousand million dollars (\$5,000,000,000).

But Mr. Shaw then cites the product of Manufactures at thirteen thousand million dollars (\$13,000,000,000), and holds that out as a brilliant picture.

If the products of the farm are removed from this category and all the other duplications regarded, the net product of Manufactures is not over forty (40) per cent. of the aggregate, or, in round figures, five thousand million dollars (\$5,000,000,000). But this total is at factory and workshop valuations.

If The farm value of our products of the field . . . . .	\$5,000,000,000
The factory value of our manufactures . . . . .	5,000,000,000
The value of metals at the mines, smelting works, and furnaces, now approximately . . . . .	1,000,000,000
be added, we get a total of . . . . .	\$11,000,000,000

But this total again is misleading. To this sum must be added the cost of Transportation and the cost of Distribution by Merchants. Adding these items, we reach the value of the annual products at the point of final consumption.

By several methods, each sustaining the other, I have reached an aggregate much larger than any other. I make it on a population of eighty millions (80,000,000) two hundred and twenty-five dollars' worth per head, or \$18,000,000,000,—a sum that few can comprehend; but, when we bring this down to the individual and the family, it tells another story.

One in each 2.60 is occupied in the work for which these figures stand.

On this analysis we find that the average product of all who take any part in this work is five hundred and eighty-five dollars (\$585).

By so much as some enjoy more must others enjoy less if that is the measure of all that is produced.

so much at variance in different arts as again to be useless for any comparison.

The valuation of Machinery and Tools may be accepted as nearer the mark, and sufficiently close to be of great use in deductive statistics. But in some cases machinery is hired by the manufacturer of which the value is not given. The table of the number of persons employed and of their wages has been more accurately computed, and may be applied to deductive purposes without any misgiving. The same is measurably true in respect to the valuation of the annual product at the factory and the workshop.

At the same time I have myself never made use of any similar census data as a basis of final judgment without applying my own knowledge of several different arts or conspicuous manufactures to a test of the census figures. For instance, knowing the cotton manufacture thoroughly and having taken the census of 1880 in this art, I can compare private compilations of the value of machinery, number of persons employed, average wages, and value of product to the general results in order to verify them, it being a rule that one may take the specific records of a large print-cloth mill and may be substantially assured that the figures of perhaps one-half the cotton manufactures may so closely correspond to the conditions of one or two mills as to make the comparison of the census of the large number with the single mill of sufficiently accurate test to justify both. The same is true of many other arts.

With this introduction as to method, I submit the subsequent analysis as one that may suffice to prove a tendency on absolute grounds, even if slight variations from particular conclusions should be allowed for. I am myself satisfied that the deductions which I have drawn from the analysis of the census of 1900 will be justified, and that they constitute a rule.

Let me here remark, by the way, that we were fortunate in the appointment of Director Merriam as the chief of the Census Bureau of 1900. He made a true selection of the heads of the division. Mr. S. N. D. North, who had charge of the Division of Manufactures, now the director of the Census Bureau at Washington, possesses most unusual quali-



fications for the service. Mr. L. G. Powers, who was and is the head of the Division of Agriculture, is a man of statistical genius, whose works on Western Agriculture are among the most valuable ever issued; and the same rule of good judgment in selecting men of experience and capacity was carried throughout the whole work.

Referring to tables in the Appendix for more exact data, it appears, according to the census of 1900, that, in a population of a little over seventy-six millions (76,000,000), twenty-nine millions (29,000,000) were engaged in gainful occupations; that is to say, working for payment in wages, earnings or profits in money, the proportion being one in each 2.60 of the population. The family group is a fraction under five (5) persons. If we take out from the number of those occupied for gain the customary ten (10) per cent. whose earnings are large enough to enable the head of a family of five to support that number, it proves that, great as the product of this country is relatively to other countries, it is yet so small that two persons in every working family of five must, on the average, be kept occupied for gain, earning money for the support of the family; and this is wholly aside from the arduous household work, which does not count in the census of occupations. The proportions of the persons occupied for gain are as follows:—

	IN 1880.	Per cent.
Agriculture . . . . .	7,670,493	46.03
Professional service . . . . .	597,334	3.46
Personal service . . . . .	3,476,832	20.15
Trade and transportation . . . . .	1,810,258	19.63
Manufacturing, mechanic arts, and mining . . . . .	3,837,112	10.73
	<u>17,392,029</u>	<u>100.</u>

	IN 1890.	Per cent.
Agriculture . . . . .	9,013,336	39.65
Professional service . . . . .	944,333	4.15
Domestic and personal service . . . . .	4,360,577	19.18
Trade and transportation . . . . .	3,326,122	14.63
Manufacturing and mechanic arts. . . . .	5,091,293	22.39
	<u>22,735,661</u>	<u>100.</u>

	IN 1900.	Per cent.
In agriculture . . . . .	10,438,219	35.65
In professional service . . . . .	1,264,737	4.32
In domestic and personal service . . . . .	5,691,746	19.44
In trade and transportation . . . . .	4,778,233	16.31
In manufacturing, mechanic arts, and min- ing . . . . .	<u>7,112,987</u>	<u>24.28</u>
	29,285,922	100.

The first great social fact which must impress every one who can derive impressions from figures is that, when the heads of families and the members of families were called upon by the enumerators not only to give the numbers in the household, but what each person did for a living, twenty-seven (27) per cent. could only reply that they were laborers; and, when we add those who could only reply domestic service and waiters, we find that one-third of all who were occupied for gain—earning money for the support of families in part or wholly—were in the grade of laborers or in domestic service.

The next great social fact which is developed by comparison of persons occupied for gain in 1880-1890-1900, respectively, is the great and rapid change which affects the social order of the whole community.

In dealing with the relative proportions in each of the arts, it must be remembered that it is probable—and, according to Superintendent Walker, almost certain—that a part of the persons who classed themselves as general laborers were in fact agricultural laborers during a part of the year. That would make but a slight change, and would affect each census in about the same proportions. It need not therefore be regarded. The relative proportion in Agriculture and Fisheries, disregarding fractions, was as follows:—

In 1870 nearly 50 per cent.  
 In 1880 nearly 44 per cent.  
 In 1890 nearly 40 per cent.  
 In 1900 nearly 36½ per cent.

If this reduction varied greatly from decade to decade, the computation might be doubted; but, since it follows a regular course, it may be accepted as indicating a rule which is con-

firmed by observation of the facts. It may be remarked that between 1870 and 1880 the self-binding harvester came into use. Before that invention six or seven men were required to each harvester to tie the shocks of wheat. After its complete application, at least five of the number were no longer required.

In that decade the number of farm laborers in ratio to farmers, which in 1870 was about even, began to diminish. Subsequent inventions continued to reduce the ratio, and in 1900 there were only three listed as farm laborers to five listed as farmers, but to the number may be added men listed as general laborers, who go to the farms in the harvest season.

This change in occupation has been analyzed by Mr. W. T. Harris, Commissioner of Education, in the *Forum* for April, 1898, quoted by Molinari in the "Society of To-morrow" (G. P. Putnam's Sons). I have added the data of 1900 to his table:—

	1870	1880	1890	1900
Agriculture and fisheries . . . . .	491.1	460.3	396.5	356.5
Liberal professions . . . . .	29.3	34.6	41.5	43.2
Personal and domestic service . . . .	184.8	201.4	191.8	194.4
Manufactures . . . . .	196.2	196.3	223.9	242.8
Trade and transportation . . . . .	98.3	107.3	146.3	163.1

The main point to be observed in this table is sustained by observation, and by the other deductions given in the treatise. The diversion of farm laborers from agriculture tends to an orderly and continuous increase in manufactures, trade, and transportation, from which ensues an increase in professional service; while the proportion in personal and domestic service varies but little. Housekeepers witness the difficulty in finding persons willing to perform domestic service. Time and space do not permit a statement in detail of the relative increase in the number of teachers, journalists, photographers, piano-tuners, printers, and other occupations, which are very striking.

Do not these changes indicate a tendency from occupations calling mainly for the exertion of physical energy to others that require mental energy and manual dexterity? Do not these higher branches of industry tend to the development of individualism?

Yet in this decade from 1890 to 1900 we have only begun to witness the diffusion of light, heat, and power by electricity, the telephone, the trolley, the bicycle, the automobile, and the rapid extension of good roads. All these forces may, and probably will, exert a more potent social influence than the application of steam, water power, and illuminating gas worked in the last century.

Time and space will not permit an extended review of these new forces.

These changes in the proportion of occupations suggest in the first instance a profound revolution in the conduct of agriculture. A new race of farmers has been in process of development since 1880, bred in the schools which have been so fully established throughout the great Mississippi Valley, then brought under the influence of the agriculture experiment stations, which are doing the most useful and effective work now going on in this country while attracting perhaps the least attention. These men are cultivating lessening areas of land on the intensive method of rotation of crops and with the application of the modern mechanism of the farm and the improved tools which have been developed more rapidly in this period than ever before. The effect is witnessed in larger crops of every great staple at a lessening cost by the unit of product with higher wages to the lessened number of farm laborers. It will be remarked that the number of farm laborers is less than the number of farmers, and, even if we add the probable number of general laborers who work on farms a part of the year, the effective force of farmers and farm laborers might be more equally divided; but the farmer is himself a laborer in the highest sense, and the farm laborer is on his way to becoming a farmer.

It therefore follows that the change of population from the field to the town and the increase of the urban population is not wholly due to the social attraction of the town or city, but is due to the same influences by which the forces of the great factories are lessened relatively year by year,—a lessening number of higher-grade men and women compass the increased product at a lessened cost. The cities and towns therefore attract two classes from the field and the forest. First, a class of men and women who have (or who think they have)

a capacity beyond that which is offered in the field, and who therefore resort to the town or city; and another, second—perhaps larger—body of men and women, who, not finding themselves equal to the increasing demands of the field, resort to the town or city in the hope of finding occupation within their capacity or willingness to perform.\*

The chief of the Census Department of Manufactures gives the reasons why no comparisons can be made in respect to the number of establishments by comparing the figures of 1900 with those of previous decades. He also states that in 1900 the data are only approximate. No exact definition was given of what constitutes an establishment. Returns were therefore made of the cobbler shops of one man and other hand workers of like kind; but in the compilations for making up the statistics of manufactures these hand trades were sepa-

\*I am also fully satisfied that the common impression that the increasing wealth of the country is being more and more absorbed by multi-millionaires is erroneous. The wealth that is in the possession of the masters of these great fortunes forms but a very small part of the whole. In the pyramid it would be represented by a very small section of the apex. The tendency to the accumulation of very numerous moderate fortunes, which are in the aggregate vastly greater than those of the multi-millionaires, can be proved by analyzing the assessment of property for purposes of taxation in cities and towns. These reports give the ownership of real estate and of tangible personal property,—intangible personal property mostly escaping taxation. The State returns, however, of the ownership of stocks in corporations in Massachusetts give further proof of wide distribution.

From the consideration of these figures and from my own observation I feel assured that the great accumulation of wealth which has marked recent years is in the possession of a very numerous mutual class of persons who are not now counted rich, but who are in possession of moderate fortunes as compared to the multi-millionaire.

No approximate estimate can be made from these figures, but in my own judgment seventy (70) to eighty (80) per cent. of all the real estate, stocks, bonds, and other securities, and of the quick or active capital of the community is in the possession of this middle class, if so one may call them. The remainder is divided between the classes that own the deposits in the savings banks, yet more numerous than the middle classes, in the co-operative banks and the like, and the very limited class in point of number who are called the multi-millionaires, whose wealth is usually very much overestimated, as the settlement of their estates by their executors so often proves. In what exact ratios this distribution exists cannot be determined.

The common phrase, which I can only call slang, so ill-fitted is it to conditions, that "the rich are growing richer and the poor are growing poorer," has no basis in fact. As the rich grow richer, the well-to-do become more and more numerous: those who do the actual physical work find constantly improving conditions, and room is made at the base of the pyramid for great numbers to pass in to work that at least yields them a good subsistence for whom there had been no room before. It cannot fail to be remarked that decade by decade the nationality of the common laborers and of factory operatives changes.

The Americans, Germans, Irish, and Scandinavians have steadily gone up in the quality of their work and in their standard of life. The laborers who do the digging and the delving, who make the roads, cut the ditches, and make up the gangs on the railways, consist of Italians, Poles, Lithuanians, Bohemians, Slavs, Hungarians, Hebrews, and many other races; in the factories, mainly of French Canadians. In one large workshop of which I had information two or three years since, employing over three thousand (3,000) hands, a large proportion of the workmen were Armenians. In many other arts the Russian Hebrews have entered, and their children are among the brightest and most progressive in the common schools.

rated. The census of manufactures may, therefore, be taken as an approximate enumeration of all establishments from which a product worth five hundred dollars (\$500) a year or more was delivered.

The census returns of establishments cover 640,194.

The hand trades representing a product of less than five hundred dollars (\$500) a year number 127,419.

Leaving at over five hundred dollars (\$500) product 515,675.

In the tabulated list of manufactures, classified under three hundred and sixty-six (366) titles, we find 512,294,—a very slight variation.

We may therefore derive from these tables and from the figures on Occupations of the People a proof of a tendency on the one hand toward larger factories and workshops of the collective order, in which, by great subdivision of labor, operatives watch the machines without being called upon for anything more than a mere manual aptitude or practice. (See tables in the Appendix to "A True Method of Protection.")

On the other hand, the tendency is proved toward an increasing number and proportion of small workshops, each under individual control, in which the craftsman is generated and developed, combining the power of the brain, the eye, and the hand in directing and controlling tools as distinguished from machines.

Massachusetts contains the largest proportion of the collective factories as compared to any other State, but also a very large proportion in number and quality of the lesser arts for individual branches of industry. For many years the Census of the Manufactures of Massachusetts has been taken in the intermediate years between the national computations, and the work of both the National and the State Census of Manufactures has been conducted under the able chiefs of the State Bureau of Statistics. We may therefore draw our conclusions from the statistics of Massachusetts with more assurance of accuracy than from any other State, and by comparison with them we may verify in some measure the National Statistics.

With these qualifications and claiming only to prove a tendency toward individualism, I therefore submit this study of

our present conditions. I had the impression, which so widely prevails, that the tendency was the other way; but this study has sufficed to satisfy myself that the figures which I have given are symbols of a great fact.

Another proof of the approximate accuracy of my deductions may be found in the comparison of the numbers reported in the Census of Occupations, or of persons engaged in gainful occupations, and in the census of Manufactures.

Under the title of persons engaged in gainful occupations in 1900, we find under the head of Manufactures, Mechanic Arts, and Mining, also including Fisheries, 7,112,987. Among this number are carpenters, masons, and others occupied in the building trades, of whom a small portion are listed as being occupied under the title of manufactures. Deducting mechanics employed in factories from the whole number in the building trades, the remainder is 825,833.

Now since, in the nature of the building trades, they rest upon individual aptitude and skill in the use of tools, they may be classified among those tending to individualism. This tendency has been subjected to a temporary aberration by the trades-unions, which for a time retard progress in the building trades. Their number is not large in proportion to the whole, and, in respect to the smaller number who join them, establish a rather low general average of wages based upon mediocrity, as compared to what the same mechanics would earn if each one were left free, or left himself free, to attain the full measure of his capacity in establishing for himself his own rate of wages.

Mining is not now included in the Census of Manufactures, giving occupation to 570,995.

Fishing and oysters, not included, 73,810.

Taking from manufacturing establishments the number occupied in the hand trades previously referred to, 127,419, we find a total of 1,598,057 listed in the census of Occupations under the titles of Manufacturing, Mechanic Arts, and Mining. Deducting these from the whole number, there is left a total of 5,514,930 occupied in the branches of manufacture that are separately listed under that title. It therefore follows that at the date of the enumeration of the census there were to be found in manufacturing establishments of regular industry, that number, 5,514,930.

It will be observed that the Census of Manufactures is not fixed at that specific date. The blanks call for the return of the numbers who were actually employed in specific factories and workshops in the fiscal year preceding the date of the enumeration, and that number came to 5,122,540, showing a difference of only 300,000 persons between the earlier date of the factory census and the date of the enumeration. That again proves the approximate accuracy of both branches of the census, as there would have been a gain in that year between the date of the enumeration and the later dates in the returns of manufactures.

Under the permanent organization of the United States Census, coupled with the adoption of uniform definitions, blanks, and methods in the several States, it will very soon be proved in which direction we are moving,—toward individualism or collectivism,—and what type of society will be developed from the social and industrial forces now in action.

Having thus stated the thesis on which I have endeavored to work out my own conclusions, I now submit deductions from the tables which I have compiled. I will first call your attention to Massachusetts as a State and then to the figures of ten cities which I have selected as typical of three different branches of work, bearing in mind that the figures of Massachusetts are justified both in the National Census and in the frequent, almost annual, investigations conducted under our Bureau of Statistics.

(See previous table.) We find in Massachusetts 250 branches of manufacture listed separately out of 366 titles which are found in the whole country.

Number of establishments . . . . .	29,180
Average valuation of machinery and tools per establishment . . . . .	\$6,920
Average number of persons employed in each establishment . . . . .	17.04
Average earnings per person . . . . .	\$458
Average value of product per person . . . . .	\$2,081

In Massachusetts there is a much larger proportion of the Textile Industry than in any other State. Dealing with this art separately, we find:—

Establishments . . . . .	438
Machinery and tools per establishment . . . . .	\$174,675



Average number of persons employed in each . . . . .	322.83
Average earnings per person . . . . .	\$359
Average value of product per person . . . . .	\$1,422

This is the principal collective industry of the State.

The next collective industry yielding the largest annual product in ratio to value of machinery and number of persons is the manufacture of boots and shoes.

It may be observed that this branch represents individual rather than corporation ownership, and that the work is far more that of the craftsmen than of the factory operative, yet it is a collective industry representing a very great division of labor.

Establishments . . . . .	640	
Machinery and tools per establishment . . . . .	\$9,000	
Add for machinery hired not valued in census on them* . . . . .	<u>3,000</u>	\$12,000
Average number of persons employed . . . . .	91.62	
Average earnings per person . . . . .	\$473	
Average value of product per person . . . . .		\$2,000

The ratio of male and female workers does not vary greatly from the Textiles. There are a few more large establishments, but, by deducting the Textile and Boot and Shoe Factories from all others, we get the approximate conditions of the Collective and the Individual Branches.

#### TEXTILES, BOOTS AND SHOES.

##### *Collective.*

Number of establishments . . . . .	1,078
Machinery and tools per establishment . . . . .	\$76,400
Average number of persons employed per establishment . . . . .	186
Average earnings per person . . . . .	\$393
Average product per person . . . . .	\$1,528

\* From the data which I have secured on the actual figures of effective boot and shoe factories under the most vigorous individual management, the product of machinery only, fairly estimated at \$350,000, is approximately \$7,000,000 per year, or twenty-fold. If the value of the buildings (land being of little account) be added, the total investment is \$600,000. Of course, a very large working capital, varying at different periods of the year, is required. The number of hands employed, men and women, in round figures, 4,000. Weekly pay-roll averaging \$40,000.

These factories are well situated where the cost of living is lower than in crowded cities, and where the dwelling-places are widely scattered under the best sanitary conditions.

*Individual.*

Number of establishments . . . . .	28,102
Machinery and tools per establishment . . . . .	\$4,200
Average number of persons employed per establishment . . . . .	10.37
Average earnings per person . . . . .	\$503
Average product per person . . . . .	\$2,500

Boston is the great centre of the manufacturing industry of the State, yet there is no very large factory in the city and the building laws forbid their erection.

Worcester comes next, a city of small industries in great variety. Lowell comes next, formerly limited almost wholly to great Textile Factories, but now rapidly developing the lesser arts.

I submit a table in which the details of the manufactures of Massachusetts, of the Textiles separated, and of ten cities, will be found. (See Appendix to "True Method of Protection.") How fully these figures sustain my conclusion I leave to the student to decide. I suggest personal observation and a study of the social conditions of the several cities in connection with this analysis, with observations upon the nationality, the type and the quality of the working men and working women, and the general condition of each city.

I also append a full table giving in similar detail the manufactures of the United States as a whole and of thirteen (13) States separately. The figures may be very surprising to most people. It will be observed that the largest average number of persons employed in each establishment is found in Massachusetts, where the collective industry proportionately exceeds that of all other States; namely, 17.04 persons per establishment.

The next largest number is found where, by observation, we might expect to find them,—in New Jersey,—15.60.

The next in Pennsylvania,—14.6,—a surprisingly low average when we remember that in Pennsylvania are some of the works that employ the very largest numbers that are to be found in single works in the whole country.

Again, we turn to New York, where the city of New York is the greatest manufacturing centre of the United States, and in which State there are many establishments and very

large numbers of workmen, yet the average is only 10.79; and so on throughout the list. The average of the whole country in more than five hundred thousand (500,000) establishments only 10.36 persons to each.

Again, in dealing with these tables, and especially with those of Massachusetts, it will be observed that the Collective Industries employ the largest value of machinery and the least number of persons per thousand dollars of capital in machinery at low rates of wages, yielding an annual product which, although greater than the amount of capital invested in the machinery only, is well known to be less than the capital of most of the factories. That is to say, in the Textile Industry and in other industries of a somewhat similar character the capital is only turned over once a year or less, but in the industries like the manufacture of boots and shoes, where the amount invested in machinery or in other forms of capital is very small, the mental aptitude and capacity of the workmen very large, the annual product exceeds the capital many times.

A suggestion might well be made to review some of the modern Trusts, or Combinations, in order to determine what the amount of the "paperization" (commonly called capitalization) bears to the value of the annual product. In the Textile Industry, paperization may never be found. On the contrary, the works have as a rule been built with economy and for money paid. In some more recent instances, Textile factories have been promoted at rather high prices for payment in stock. As a whole, the capital now outstanding in the form of stock may be regarded as much less than the original cost, the capital stock having been cut down in many instances to meet the lessening cost of construction.

On the other hand, if one gives regard to what is called the capitalization, but should be called the paperization of the Steel Trust, it will appear that the product at its highest point was less in value than one-half the nominal capital represented by stocks and bonds; and that has been the case with respect to a very large number of the modern Trusts, or Combinations.

Under the conditions named in respect to steel it is manifest that there must be a margin of profit of at least twenty (20) per cent. on the product in order to yield the necessary sum

for depreciation and for the interest on outstanding bonds and dividends on the stock. It therefore follows that very powerful individual enterprises have been or are being organized on a true cash basis, of which the annual product will be much more than the capital invested, and from which a small margin or profit will pay dividends on the true capital, when the inflated paper capitals will get nothing.

In the end the Individual enterprises must be more effectively managed than the high combinations, and will, within a reasonable period, bring them to a cash basis or displace them wholly, except so far as they may own a considerable part of the crude ore and coal, of which there can be no monopoly in this country.

Again, referring to the small workshops, the individual industries, we find throughout a very small capital in proportion to the amount of work done, the highest rates of wages, and the largest product as compared to any of the Collective branches of work.

This again indicates that, although no man is paid or entitled to be paid for his work by its measure in quantity, in kind, in number of hours or strenuousness of the effort, yet every man makes his own rate of wages. He is paid for his services according to the measure of what he saves to the man who pays him, either to the employer or to the man who buys his product.

In former days each little community and almost every household made its own cloth and clothing, often cobbled up its own footwear, made its own furniture, and so on. Many could do the same work at the present time with a little preparation, especially the boys and girls who have been taught manual training. Why does not every man or woman do this work to-day? Why do they buy boots, shoes, clothing? They have no special interest in the people who do this work; they have no knowledge of what rates of wages they earn; they never see them; they may be a thousand miles off. They buy the goods because they save their own time and can make a more profitable disposal of it than if they spent it on the work which the factory operatives do for them.

There is a conscious or unconscious cerebration in every bargain and sale; and the rate of earnings, wages, and all other

forms of compensation, is fixed by the measure of the service which the buyer puts upon it, and not by the measure of the work which the workman, or the singer, or the artist, performs.

It has been held that the Collective, or factory, system and the division of labor shows the greatest progress in the application of science and invention. That is true in one aspect of the case; but, on the other hand, the improvements that have been made both in hand and machine tools are even of more importance and even more effective than those which have been made in automatic machinery. It can almost be said that, the better the tool, the better must be the man behind it,—the more skill is needed: the more the tool requires the combination of hand, eye, and brain, the greater the development of the man or the woman; and with this development come increasing wants and increasing power to satisfy the wants.

On the other hand, the Collective Branches of Industry give opportunity to common laborers to pass from the state of mere "clodhoppers" into a position which a few years since required a skilled mechanic, the automatic mechanism requiring attention and watchfulness without any considerable manual training.

The Collective Factory system has also given opportunity for women to enter into many arts. Fifty (50) years since it was a step upward from the isolation of the New England farm and its arduous duties to the Lowell cotton factory. The daughters of the farmers worked by bell time fourteen (14) hours a day, or, less the lunch time, thirteen (13) hours of actual work, in a low-studded, badly heated, and badly lighted building where they earned from 1840 to 1850 an average of one hundred and seventy-five dollars (\$175) each per year, with an average product per hand of less than ten thousand (10,000) yards of heavy sheeting.

From that date there was a gradual reduction in the hours and labor, coupled with improvement and increased product in the machinery, an advance in the rate of wages, and a lessening in the cost of labor by the unit of product.

It has been held that since that date the operatives in the cotton factories have degenerated. Such is not the case. The class of working people who are now fully competent to tend

the automatic machinery would have been wholly incapable of operating the less automatic mechanism of the earlier date. The farmers' daughters of New England have passed up into far better employments, making much higher earnings, and their places have been filled mainly by people of foreign origin. In one large mill of which I have information two thousand (2,000) operatives are divided among sixteen (16) different nationalities, the larger portion being French Canadians. What purports to be the very same mill as that of 1850 has one front wall only of the former construction: it is now a large, well-lighted, well-heated, and well-ventilated building; the hours of work are ten per day, with half a day off on Saturday, fifty-six (56) hours per week; the average earnings double the former rates; the product per hand would be forty thousand (40,000) yarns if the same fabric were made, and the cost of labor by the yard greatly diminished.

It follows that, although there is less individualism in the Collective work of the factory, yet by the force of science and invention new strata in the social order (if one may use that word) are brought into view. The Industrial system would correspond to a pyramid lifted at its apex higher and higher; each class passing up to a higher plane, decade by decade, and leaving a space below for a broader base, consisting of those who would have found no place in the arts, either Collective or Individual, in the previous generation.

The time is not far off when, even in the Textile factories, one will witness similar conditions to those which now exist in steel works,—hardly a workman to be seen. The operatives in the Textile factory will number less and less as the mill becomes more automatic, until at last it will become one great combination of mechanism in which a few experts will keep the machines in order, but few operatives will be found even in the weaving-room, and they will be of the highest grade.

Thus, even in the Collective system, Individualism, personal capacity and aptitude, will become more and more the rule; and, even though the Collective factories increase in number and product, the proportion of mere operatives in the working population will steadily diminish.

It must now be observed that the function of the great factories, the iron and steel works, and others of like kind, all

of the Collective type, is only to convert the crudest product of the field and the mine into a secondary form more or less advanced; but the products of the Collective factories and works become the partly manufactured material which pass on to the next stage where they are converted into their finer and higher forms by craftsmen and skilled women who must combine the hand, the eye, and the brain in order to do their work. "What," some one will say, "are not textile fabrics the crude material of the 'sweat' shops?" True; but the poor sewing women of the "sweat" shops are there because they are either poor in their skill and aptitude or in their capacity to take the places in the clothing factory, where there is always a demand at high wages for those who possess the necessary individualism, skill, and aptitude.

Observe again that with each stage in the development of modern tools as distinguished from machinery there comes in a call upon individualism, a demand upon all the faculties; and, with this increased demand upon the intelligence, corresponding earnings follow, new wants are created, and better conditions of life are attained.

I trust that I may not be in error, that I am finding only what I hoped for rather than what is really symbolized by the figures that I have treated. Nevertheless, "faith is the substance of things hoped for, the evidence of things unseen," and one who deals with the figures of our national accounts as mere symbols of conditions cannot fail to become an optimist. They witness the evidence that mental energy is the prime factor in all material production. The quantity of physical energy with which the world is endowed may be fixed: the conservation of physical energy is a law. In the conversion of energy from one form into another our life is developed: the body of man is but one phase of this conversion of physical energy from one stage to another. But there is no limit to the power of mind over matter; there is no limit to the development of mental energy; there is no limit to progress in directing the conversion of physical energy from one form into another: and, since mental energy is and always will be the prime factor in all material production, one may upon that basis predicate a rule,—The power of consumption is limited, the power of production is unlimited. Whether or

not there shall be temporary or local congestion and want for lack of the means of living or widely diffused abundance will rest wholly on the development of human intelligence, on the suppression of the brutal instinct of war and warfare, and on the repeal of all statutes that conceal a subtle perversion of the power of public taxation to purposes of profit.

Again in the system of law that forbids interference with the equal rights of every man to enjoy the fruits of his own capacity will be found a true law of material progress.

Taxes on crude wool, ores, on lumber, dyestuffs, and chemicals yielding but a small fraction of the revenue, yet heavily increase the cost of the product of our own factories, and thereby they tend to protect the foreign manufactures in competitive countries whose rulers are too wise to put any taxes upon the material necessary to their own domestic manufacture.

Witness the fact that Protection fails to protect both wool and woollen manufactures. Under the existing conditions the domestic consumption of raw wool has diminished, while the import of woollen manufactures has increased. The heavy tax upon wool has so far advanced the cost of materials that even under yet more excessive taxes the foreign goods are protected and are brought in in increasing quantities. Taxes on food and fuel, on fish, vegetables, provisions, and coal, increase the cost of living and oppress those who earn the least wages more than any other class, while they are of advantage to no one,—mere obstructions to progress. Such taxes fail to assure even the control of the home market, and surely retard foreign exports. The burden is diffused in the most subtle manner, so that no one can measure the retarding influence until such taxes are removed.

That is proved by the economic history of Great Britain, but we may witness the progress which ensues from the removal of petty taxes in our commerce with Porto Rico, since reciprocity was established with that island imports and exports advancing fivefold in less than five years, or from an aggregate of four million dollars (\$4,000,000) to over twenty million dollars (\$20,000,000), about evenly divided between imports and exports.

The experience of Great Britain between 1842 and 1856 also



proves that with every remission of the petty taxes that were taken off, under the leadership of Sir Robert Peel, manufactures, trade, and commerce went forward by leaps and bounds, and the population of the British Islands was brought up from the most disastrous conditions that ever prevailed, as they existed in 1840, to the most prosperous conditions, under which they have continued down to the present time, retarded of course at different periods, and especially at the present time by the brutality of war and warfare.

Our own national progress has only been slightly retarded by the interference with free commerce on the seas. The absolute free trade among the States and the impossibility of supplying the greater part of the manufactured goods required from any foreign source has rendered even the present excessive tariff no very serious obstruction. Its worst effect is the political corruption that it engenders. The system is now intellectually dead.

In the tendency to individualism and to an increasing product in ratio to numbers employed, I foresee that the time will come when the home and the family will again become the unit of society, when the head of the household will be able to support the average family, and the evils of overcrowding will be overcome. The force of invention now tends to the wider area of cities, the closer neighborhood of farms of lessening area.

Some of you may live to see the day when a good subsistence and a comfortable home will be so well assured to every man of average intelligence and industry that it won't pay to be rich, and when all may enjoy the leisure so well defined by an old Bohemian in one of my cooking-books,—“Leisure,” he says, “consists in the diligent and intelligent use of time.”

I happened to be employing the little leisure that I can find in the conduct of my affairs to the solution of this problem, but have had to hasten the work, since only two or three days ago Mr. Brooks asked me to submit it to you. A complete study of the forces now in action that are symbolized by the figures submitted to you cannot be made by any private investigator, and I trust that Mr. North, the superintendent of the Census, will be impressed with the aspect of the case herein presented, and may so organize the affairs in the Census De-

partment as to bring out the relative numbers and conditions of the Collective and Individual branches of industry on the lines which in this paper I have merely sketched.

My own observations during over sixty (60) years of employment by corporations has led me to the same conclusion to which this analysis leads, namely: the corporate or collective system is necessary in the conduct of railways; it is convenient for the organization of many departments of industry; it has been adopted in many manufacturing corporations, where it has proved to be a somewhat costly and ineffectual method. In all the large and necessary corporations you will observe that some one man comes to the head with paramount influence. Sometimes he is advanced too rapidly, he loses his head, he fails and is removed; but without this paramount influence of individual power and capacity there is no efficiency either in the railroad or the manufacturing corporation.

In the manufacturing corporation I have witnessed many beginnings by a few powerful stockholders concentrating their force under a strong management: hence success, with full dividends. These attract attention, gradually the stock becomes widely distributed, the founders die off, and it falls into the ordinary management without a single responsible head: then comes failure and re-organization. The history of corporate manufacturing, I think, in a majority of corporations is a record of alternate success, failure and bankruptcy, reorganization and reconstruction, the necessity of individualism declaring itself in every phase.

In the lesser arts the corporate system seldom attains, except in recent years as a substitute for limited partnerships. Individualism is implanted in human nature. Effective work demands personal liberty, freedom of contract, and the unrestricted use of all the elements of production and distribution, including time. All efforts to restrict the exchange of products, of course admitting necessary police regulation by legislation, and all efforts of trades-unions to limit the use which each man may make of his own time and his own capacity offer temporary obstructions to progress and welfare. One after another these devices attract unpractical, sentimental, or selfish persons, and are imposed upon large numbers of people often against their will.

In the end, individualism has prevailed, and will prevail. Every attempt to deprive adult men and women of their liberty to use their own faculties for their own benefit, which they cannot do in trade or commerce except to the mutual benefit of those with whom they deal, will in the lapse of time be rejected, and the fundamental law of personal liberty will yield the utmost benefit and the greatest measure of human welfare.

I entered upon this investigation with this impression on my mind, but I have endeavored to analyze the figures which I have presented to you without being biased, and to put before you the positive results which may be derived from them.

I trust the superintendent of the Census may adopt and improve my methods. I have only been able to show the way and to give this imperfect sketch. If the trained experts of the Census Department should tabulate the arts and occupations by classing the collective factories and workshops in their order and the lesser arts according to their kind, and by classing occupations by the relative demands on the faculties of brain, hand, and eye with corresponding tables of relative earnings, I am certain that the tendency to individualism in every occupation would be proved.

Another factor in material progress should be noted. In the last century the profit of each generation consisted wholly in saving the waste of the previous one. In the present century it seems even probable that the profit of each decade will consist in saving the waste of the previous ten years. Inventions are now proceeding with such rapidity, and the forces of electricity, of gas engines, of steam turbines and new tools and machines, are coming on so fast that the progress of the factory and the workshop may be more fully indicated by the size of the scrap heap than ever before. If the improbable should come to pass, and it should prove that the great bogs of carbonaceous material which have formed in all the hollows of the glacial drift of the North, and in the morasses and lagoons of the South, are in fact coal in its primary form, needing only a simple and cheap mechanical process in place of geologic ages to convert it into fuel, coke, and gas, another unlimited supply of power will be added to our resources.

I have called attention to the fact that the profit of each

generation in the past has consisted in saving what was wasted by the one before. The next great saving in waste may be in architecture, in saving the waste of roof space. Architecture should stand at the head of all the arts, yet we have developed no national type. The common type of roof (now giving place to flat roofs, seldom fully utilized), whether the pitched roof, the Mansard, or the crazy roof decorated with inverted mustard pots and pepper boxes, and the hollow flat roof with wooden cornices, are all bad and dangerous. The interior of the pitched and Mansard roofs is usually encumbered with combustible rubbish, while the exterior seems to have been devised for the special purpose of catching sparks and attracting flame, so that the spread of a conflagration is most fully assured. Perhaps the worst examples of bad, wasteful, and dangerous roofs are to be found on asylums, hospitals, and often on school-houses and college buildings.

When safe and solid construction takes the place of combustible architecture, flat roofs may be so constructed as to become the resort of those who dwell in tenement houses in the hot nights of summer; they will give place for roof hydrants and fire apparatus protected by parapet walls on business blocks; they will provide open spaces in summer, glazed in winter, on the school-houses that are in crowded cities with no sufficient playgrounds attached; they will give places for sun and air upon hospitals where sun rooms for winter use may be glazed, and tents may be put up in summer. In short, if true regard be given to the motive of each building, the present waste of nearly all the roof spaces of cities may be saved and put to useful purposes, adding an area at very slight cost equal to the ground area on which city buildings now stand.

A beginning has already been made. The roof gardens on a few of the hotels in upper New York and on some of the theatres, and the provision for recreation of the employees upon the top of the latest and safest of the department stores, prove that true architects, or some owners who direct architects, fully comprehend this subject.

It is sometimes held that the soul of a people is embodied in its arts, especially in its architecture. If that is true, in what type of architecture is the soul of the people of this country expressed? Possibly in the old colonial type of a detached

dwelling-house standing for the home and the family. Who can name any other example? The reversion to that type is a hopeful sign of the present time.

The mention of cement opens another broad field for reflection. The most backward art in the United States is what may be called in this treatise the Manufacture of Buildings, in which the largest body of workmen outside of agriculture is occupied, constituting the Building Trades. This art is under the supervision (I wish I could say the intelligent direction) of a special class called Architects, who are ambitious to be artists, but who until recent years paid very little attention to engineering or to the principles of construction, holding the utterly erroneous position that the work of the engineer and the builder did not constitute a necessary part of the training of the artistic architect, and forgetting that some of the greatest architects of the Renaissance were among the greatest engineers of their day. I may only name Michel Angelo, Brunelleschi, and Leonardo da Vinci.

A change is rapidly going on under the urgent call of men of affairs for competent architects who may be capable of constructing buildings that shall not go rapidly into the ash heap by way of fire. As I once told Sir John Cockburn when witnessing the active work of the Boston Fire Department, "We may judge of the architecture of this city in inverse proportion to the activity and skill of the Fire Department."

The beginning of architecture and also of printed or inscribed records is found in the age of clay, when unburnt bricks were the materials for the construction of buildings in Egypt, and clay tiles marked the beginning of books of record in Assyria. In the course of time the work of construction passed from the age of clay or unburnt brick to the age of stone with timber roof, where roofs were needed. The next stage was the age of brick or stone with open timber construction in the cathedrals and other buildings; much later came the age of the basket-framed wooden dwelling encased in brick or stone walls of tolerably solid construction; presently passing on to the age of sham or of wooden structures of the most combustible kind set off within brick or stone walls in churches, memorial halls, school-houses, and dwellings, giving a sham architectural appearance on the outside, but provided within with every

possible open way for fire to pass protected from water from the heating apparatus in the basement to the peak of the hollow roof. Next came the age of cast iron and of wrought iron combined with brick and timber, from which we have passed into another age of sham or to the basket-work construction of light steel, exceedingly subject to corrosion, holding up under fire so as to assure the complete destruction of the contents even without serious injury to the frame, and veneered on the outside with brick or thin slabs of stone.

We are now passing on in the upward spiral of progress again to the age of clay,—burnt clay in brick and tile and plastic materials,—concretes, cohesive tiles, bonded by cement, combined in new forms of solid, durable, and true construction, to which true architects may give dignity and æsthetic beauty such as can never be imparted to the sham construction of steel and veneer.

Book-making passed from the age of clay tiles through the use of papyrus, palm leaf, and parchment, thence into strong, well-made fibrous paper; but now, alas! passing downward, not upward, into the age of wood pulp loaded with clay, a reversion of the most detestable order, from which it may be hoped that we shall emerge when science and invention find a way to make good paper,—durable, strong, and light without the clay,—and save us from being cheated with clay products combined with mere pulp that possess neither present merit nor permanent durability.

In this reversion to clay and plaster materials we may soon witness the beginning of a national type of architecture, untrammelled by the quality of the materials to which our buildings have been restricted. Let us hope for it. Again, this means Individualism in the practice of architecture, the study of the motive of each building, the adaptation of the products of clay and plastic cement to the special condition of each section of the Union. It may be hoped that, in the progress of this change, men will come to the front who, combining the functions of the architect and the engineer, may be trusted to design the great factories and workshops, and who may put into them evidence that industrialism and true art are not inconsistent with each other.

We are entering upon a century of industrial activity in

which militarism, imperialism, and war will be suppressed by the force of commerce.

I use the word "force" in order to call attention to one of its most singular applications in the manufacture of killing instruments.

Very truly has Dr. William Everett observed that "man is the only illogical animal." In proof of this witness that the most potent agent in promoting the era of peace is the inventor and manufacturer of killing implements and machines. These men seek only their own personal profit. The manufacturers are governed by commercial motives. They seldom, almost never, take any personal risk in the use of the weapons that they make. A glance over only a few names will prove this. A slight investigation also proves that the profits in this branch of manufacture have been very large, leading to some of the largest fortunes. We may name only some of the more conspicuous among the inventors and the manufacturers of killing machines: Krupp, Armstrong, Hudson Maxim, Winchester, Remington, Whitworth, Hiram Maxim, Sharp, Ericsson, Laird, Gatling, Cramp. I have the impression that the Mauser, Krag-Jorgensen, Martini-Henry, and other European rifles are the invention of civilians, but, where men of inventive capacity may be forced into military service by conscription, some inventors may be in the service. These are the names of civilians by whom inventions have been made, and science has been applied for commercial purposes. Not one has ever appeared among masters of the art of war.

On the other hand, not one name ever conspicuous in military or naval records appears among the inventors. Glance over the list of names of men who have become famous in war, and, with here or there some minor or temporary improvement, not one is credited with any invention of any permanent importance in the conduct of war. As one of the greatest inventors in this line once wrote to me, "Had it been left to military men to invent their own weapons, they would have been fighting to-day with stone axes and wooden clubs."

Yet more, all the great inventions have been forced upon military and naval officers. The "Monitor" was built at private cost and forced into our navy, where it met and destroyed the "Merrimack," which had been built at the instance of

Governor Wise of Virginia, who had no military record. It saved the navy of the United States from destruction, and perhaps saved the nation. The reason is plain. A type of mind which is capable of comprehending grand strategy and the science of warfare is not inventive. It is conservative. It deals under certain general principles with things as they are, and hates to have all its tactics, drill, alignment, and method of developing armies changed and altered.

We are fortunate and singular in this country in having no military class or caste, nor does either the army or navy service attract intelligent men for any reason that it leads to a high social position. The graduates of West Point, brought together from every part of the country, subjected to a rigid but very narrow course of instruction, are sent away as soon as they graduate to distant points; seldom met in what is called society; always welcome when they do appear.

The graduates of the Naval School at Annapolis are assigned to duty at far distant places; seldom met in society, as it is called, perhaps oftener than army officers because the navy yards are near cities. They, again, are always interesting because in the peaceful duties of the navy, in the coast survey, the maintaining of lighthouses and other scientific pursuits, their minds are broadened and led to a wider interest than the ordinary duties of the army officer lead to.

Again, one of the great advantages of this country over every European nation is the conspicuous absence of the regular soldier on the streets of cities, yet more in the rural districts. How many of the younger people of the present generation have ever seen a regular soldier in uniform?

Neither career offers any future to a man of inventive capacity or great organizing power. It follows, especially in respect to the naval service, since it became, as some one has said, "a very dangerous branch of mechanical engineering, very much underpaid," it ceases to hold the men of highest capacity. Many, very many have left before reaching middle life to take the places which are always open to them, which call for a much higher standard of ability and for more useful service than in the navy, promising to lead on to fortune in place of dependence in old age upon a meagre pension. It would not be suitable for me to name the large number of men



who have graduated in these schools, who are now in charge of many of the largest works in this country, but they are well known to every one who comes in close contact with these establishments.

Witness again the power of the inventor in the almost childish proposal of the czar, even in his broad design which led to the organization of The Hague Conference. He proposes to stop the progress of invention and to limit killing instruments to their existing conditions. He would put limits on the hell of war, lest it should become so conspicuous as to stop warfare. Of course such proposals are futile and fleeting. The inventor is more potent than the czar, and the Russians are now meeting the proof.

Again, the efforts of the charitable to mitigate the horrors of war, and to bring the Red Cross organization to alleviate suffering, merely serve as almost transparent screens, covering, but not hiding the abomination and barbarity of the whole system.

Yet there are men to whom service in the army and navy is always attractive, even though not governed by the mere brute element which we find in such books as the "Autobiography of Lord Wolseley" (whose name has perhaps been misspelled: it might read Wolfsley), in whom the survival of the brute, even coupled with high intellectual qualities, indicates the degradation to which manhood may be brought in the practice of a profession.

The class of men to whom service in the army and navy is attractive will still be called for even when the great battle-ships have passed away, and the absurd dogma "In peace prepare for war" by exhausting the resources of a country has been exposed and been rejected. There will for generations to come exist the necessity of a moderate force for the protection of commerce from predatory nations, and there will be need, as there is in Canada, of a national mounted police which calls into its ranks men of high character and standing.

Again, the peaceful service of the navy may always draw into it men of ability whose interest in science finds opportunity in the development of the service to which I have previously called attention.

The advocates of peace are not, as a rule, non-resistants or men of peace at any price. What they seek to compass is the limit of armies and navies to the defence of liberty, of the freedom of the sea and the protection of commerce against privateers, pirates, and predatory rulers, waiting for the time to come when dynastic families kept in place by caste and privileged classes have either degenerated and died out, or have been deposed by the establishment of popular sovereignty among the masses whom they now oppress.

There is nothing more shallow or sophistical than the tone in which what is called Commercialism is often held up to scorn.

By way of commerce human wants are supplied and human needs are met.

It requires the service of men of more commanding ability than armies or navies, and at its behest the century on which we have now entered will be dominated by its power.

One only needs to review the events of only six generations of the customary number of years, so defined, to bring before his mind the evidence.

It was one year after I was born when the first steam locomotive passed over the iron rails on this continent.

When my father was born, there was not a power loom in this country and very few in England.

Modern industry and commerce have been developed within the span of a single life not yet fully spent. All these forces tend toward the "Eternal Peace" that Immanuel Kant predicted a century since:—

"Can this thing come to pass?  
Nay, if it be, alas—a Vision,  
Still let us sleep and dream it true;  
Or sane and broad awake,  
For its great sound and sake,  
Take it and make it Earth's and Peace ensue."

*"Arthur Arnold."*

I have said that one who can read the lesson of which these figures are the symbols cannot fail to be an optimist, as he comprehends the forces that have so changed the conditions of the world in the nineteenth century. Before that period the progress of the world had been by war: in that period that

power of commerce began the suppression of war, and the development of science is now rendering the suppression of the predatory nations more certain.

It may be deemed only a vision, even a mere fancy, to predicate the cessation of warfare on the forces of invention and of commercialism. There is much shallow sophistry in the denunciation of commercialism; but what is it? The word stands for the conduct of commerce, and it is by commerce that the hungry are fed, the naked are clothed, and the homeless are housed. It rests on mutual service, it demands peace and order, its conduct rests on probity, integrity, capacity, and character.

The practical man can find in these conditions, and in the present application of power, light, and heat generated by methods unknown before the men of threescore years and ten had reached middle life, the assurance of yet greater abundance, more widely diffused, when the war of tariffs shall have become as grotesque and as futile as the war of battleships is becoming, when met by torpedoes and submarine destroyers.

The idealist who accepts no dogma and admits no final authority in either science or philosophy can find in the "ion," or spark of mental energy by which his life is governed, the promise of the infinite and the eternal, the light that leads up to the high thought that can never alter. To him

"The one remains, the many change and pass.  
Life, like a dome of many-colored glass,  
Stains the white radiance of eternity,  
Until death comes, and shatters it to fragments."

A few words of more general import in conclusion. The imagination is a prime factor in the promotion and in the conduct of all large undertakings. I mean not the mere fancy of the unreasoning speculator or stock gambler, but the forecast and power of basing present action on the long distant future. I may cite the late Oakes Ames as an exemplar. He was a skilled mechanic who had reached more than middle age in the prosaic occupation of making shovels in which he had secured a fortune. None would have imputed imagination in the ordinary sense to him. He was a man of strict integrity, of solid character, and the highest probity. Elected to Con-

gress, his imagination was aroused by what then seemed almost a fanciful project of binding the Pacific States of the Union with iron rails. This great conception took possession of him, and into it he put his whole fortune at the greatest risk. True himself, he did not suspect others. He became allied with men of great ability, but of little honor or integrity, and they betrayed him. In the pursuit of this great national work he sought support among his associates in and out of Congress. He used his personal credit in the rashest manner in order to bring in funds necessary to the conclusion of the great work. Prudent men distrusted the undertaking, and refused to invest. His colleague, Mr. Samuel Hooper, risked a large sum, and, when other colleagues deserted Mr. Ames, he stood by him manfully and justified his course. For years success was doubtful, but at length it was attained. Attacks were then made on all who shared. The base deserted him, and cowards in Congress went back on him, trying to screen themselves from acts for which they might have been proud by imputing to him corruption and venality. This man who had accomplished more to maintain the union of the Pacific and Atlantic States than any other man in civil life was hounded to his grave by an unjustifiable and unmerited vote of censure.

But the imagination is also a potent factor in causing temporary depression and retardation in material progress, leading sometimes to senseless panics. At the present time we witness an example. The word "protection" has become a sort of fetish, and, when changes are proposed in the tariff, business men begin to halt in all their transactions, even those who could only gain with every removal of a duty on imports, who are by far the largest number occupied in business. They imagine that there will be a great change in all prices, and then they buy and sell only from hand to mouth, ceasing to lay up even their customary and almost necessary stocks.

This country was never before so full of wealth as it is now. There never was a greater amount of capital waiting for investments. The opportunities for the expansion of industry, of trade, and of commerce, were never so great, yet depression exists, and, in the common phrase, "trade is very dull." Why? The tariff question is up, and all think they must wait to see what Congress will do. If only the fact could be made plain

to every one that whether by means of the high tariff which has been enforced for a generation since the end of the Civil War, or in spite of it, our arts have reached such a state that out of over thirty million (30,000,000) persons now occupied for gain, supporting eighty-two million (82,000,000) population, not one million (1,000,000) could be harmed, while all the rest would be benefited if every duty upon imports were repealed and every custom house were razed to the ground! Were it not for this misleading imagination, activity might take the place of the present depression. No one even suggests such a radical measure, nor could absolute free trade be reached, even if it were believed to be most desirable, under the present necessity for collecting a moderate revenue for duties on imports. But may not the proofs which are herein assembled bring support to such a change in duties on imports as shall make it certain that all taxes that the people pay the government shall receive? Can any one sustain a policy by which the power of public taxation is perverted to purposes of private gain? May we not demand reciprocity on the one hand, and the adjustment of duties on imports in such a manner as will best promote domestic industry, protect American labor, and assure the public welfare?

If in this effort to bring public support to a true policy of protection to domestic industry and to the tendency to individualism, these treatises may be timely and serviceable, I shall be well satisfied. I shall be no more scared by the hard words that may be uttered than I have been by the foolish cry of "traitor" which was put upon me because I stood firmly on the principle of liberty and denounced criminal aggression upon the people of the Philippine Islands.

The principle of liberty is too deeply embodied in the institutions of this country to be overcome by any legislative restrictions not rightly covered by the power of the police to prevent abuse. Free soil, free speech, free press, the greatest possible freedom in the division, purchase, and sale of land; Free Trade on a continental scale within our own domain, have been attained. The few restrictions on the right of every one to enjoy the free use of his own time and capacity will soon be abated.

PROTECTION OF PIG IRON—WHAT DID IT COST?—WHO  
GAINED?—WHO PAID?

I submit the analysis of the iron and steel industry from D. A. Wells's last book, entitled "Recent Economic Changes." I shared with him in making this analysis, which is carefully guarded, is conservative, and is far within the mark in proving that in the ten years which elapsed from 1888 to 1897 the excess of disparity in price paid by the consumers of this country mainly to the producers of iron and steel, stated by Mr. Wells at five hundred and sixty million dollars (\$560,000,000), was in fact nearer seven hundred million dollars (\$700,000,000) than the sum named. This disparity, whatever the price may have been in either year in this country or in Europe, rendered it impossible for the converters of pig and bar iron into machinery and the higher types of metallurgy of this country, to compete with the workshops of Europe, while the iron and steel makers of the crude forms of pig, ingot, and bar were enabled to convey enormous sums from the pockets of the consumers into their own quickly accumulated wealth. The intermediate consumers of these crude forms of metal, the machinists, the tool makers, and that vast body of craftsmen far more numerous than all occupied up to the pig, bar, and rail, were restricted and oppressed, while their competitors in Europe were fully protected in their control of all other markets of the world, and in part of the home market in this country.

It will be observed that American labor was not protected. The proportion of hands occupied in mines, coke ovens, furnaces, and rolling mills, is but a small fraction of the persons occupied in all the manufacturing and mining arts: a small portion even of that force consists of skilled labor, the larger portion being common laborers of a very low type,—not their fault. But American labor, either native or native born, finds occupation of a much higher and more useful quality than to work under the squalid conditions of the mining towns and of the blast furnaces as they were in the period. It followed that the mine owners and furnace men imported foreign workmen of every type to fill places that they could not fill at home at very low rates of wages, bringing about the most dangerous and squalid conditions of life that have ever existed in any

section of this country, hardly yet alleviated. What had been protected and what is the necessary course of interference in the conduct of an art which could not have been kept out of this country by any legislation short of prohibition was the gradual concentration of the control of all the great establishments among a lessening number of owners, a greater and greater subjection of the workmen to their control, strikes, violence, and conflict from time to time, until in 1890 the home competition and the very great skill of the men who had taken the lead brought prices down to a parity with foreign prices or even less, proved that the artificial stimulus of protection had never been required, and brought about even conditions in the prices of crude iron and steel in this country and in Great Britain. Straightway the higher forms of metallurgy—the conversion of these crude forms into their higher types—went on by leaps and bounds, and the exports of machinery amounted rapidly to over one hundred million dollars (\$100,000,000).

But the concentration of the iron and steel works went on, culminating in the Steel Trust in which all the real capital represented was less than what the consumers of iron had paid in ten years in order to support what was grotesquely called an infant industry. The fortunes of the great multi-millionaires, so far as they have realized them in cash by getting rid of the paper stock of the steel trust, represented in part their skill and ability. Many of them were men who would have built up the iron and steel industry without protection as surely as they built it up under the system. Their excess of profits beyond the normal rates in unsubsidized work conveyed from the pockets of consumers into their hoards amounted to more than the cash value of all the property that they put into the Steel Trust.

The end is not yet. The public has not been gulled into a digestion of these paper stocks. Strenuous competition has been rapidly developed; the prices of iron and steel are again about at a parity with foreign prices; the exports of machinery and tools are again increasing; and the public has begun to comprehend the axiom put forth by Mr. Havemayer, that "the tariff is the mother of trusts"—and yet more, the instrument by which the multi-millionaires of the Steel Trust have secured in part, if not wholly, their enormous gains.

The natural law of free exchange and competition evolves high wages, low prices, large product, and a lessening margin of profit on each unit of product. That is the law of progress. The Steel Trust gives a most conspicuous example of the law of retardation and obstruction,—low wages, large profits, restricted consumption, compelling help from imports even at very high prices and excessive duties, higher branches of industry greatly retarded, private profits enormously augmented.

But, if the only objection to the system of protection were its cost, even if, for each dollar which the treasury receives on tariff taxes, another dollar must be added which the people pay, but which the government does not receive, the burden in dollars and cents would even then be of relatively small importance. The continental system of free trade has saved us from any serious injury through the privation of free commerce with other countries. The evil is not disclosed by the mere cost: it is far deeper. Protection generates a privileged class. Patronage in the distribution of offices becomes one of the instruments by which the privileged class secures political influence. Privilege, patronage, and protection are synonymous terms. Whenever and wherever, or under whatever party name, the power of public taxation is or can be perverted to purposes of private gain, the politics of the country are degraded. Public office in place of being a public trust is perverted to the support of private trusts.

In districts and in States, men of the highest intellectual capacity, most capable of becoming statesmen, are practically barred from public office because they will not submit their convictions of right and justice to the demands of the privileged class by whom the caucuses are managed and the members of Congress are nominated. In other cases, in some very notable instances at the present time, men in high positions have sacrificed their own convictions in order to attain high political position in Senate and House. Such men are used by the privileged class to promote their own purposes, but they have neither the respect nor confidence even of their own supporters. There can be no true statesmanship, no true selection of representatives in Congress, no true organization of the civil service, so long as the power of taxation is per-



verted to purposes of private gain, miscalled protection. Even if this policy had promoted greater material welfare, even if it had accomplished the alleged purposes and in many, many cases the honest and sincere purposes of its promoters, yet it must be condemned. The price of political corruption would have been too great, even if material success had been attained. But having utterly failed,—having retarded rather than promoted the material welfare of the nation,—it must be condemned economically, morally, and politically.

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PUBLISHED FOR THE

AMERICAN SOCIAL SCIENCE ASSOCIATION.

DARRELL & UPHAM AND THE BOSTON BOOK COMPANY, BOSTON, MASS.

[SELLING AGENTS FOR THE ASSOCIATION]

1905.



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SEPTEMBER, 1905.

BOSTON PAPERS OF 1905.

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1905.

EDITED BY  
F. B. SANBORN  
FOR  
FREDERICK STANLEY ROOT,  
GENERAL SECRETARY OF THE ASSOCIATION, 291 ORANGE STREET,  
NEW HAVEN, CONN.

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## INTRODUCTION.

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The papers included in this number of the *Journal of Social Science* comprise all of the Boston addresses of 1905.

Since printing the Historical Address, the United States League of Co-operative Banks, etc., has met in New York, and Mr. Cellarius, its Secretary, reports as follows, in addition to the facts given on pp. 10 and 11:—

“The number of separate associations is now 5,265 as against 5,308 in 1904; but their total assets are now \$600,342,568,—a gain for the year of \$20,786,474. The total membership is 1,631,046,—a net increase of 64,346 members.”

It may be well in this place to remind essayists once more of the *invariable rule* of the Association, that all papers engaged for the General Meeting are so secured with the understanding that they may be published in the *Journal* if deemed advisable. The members of the Council, however, are not pledged in advance to the publication of any particular paper. If writers choose to publish elsewhere, it must be with the stipulation that their papers may also be printed in the *Journal*, at the option of the Council as to date of publication. Heads of departments are not solicitous to secure essays which, in general form and substance, have been read elsewhere before presentation at the Association Meeting.

A list of all addresses and papers will be found in the Table of Contents, and volumes published by the Association may be ordered of the Boston Book Company or of Damrell and Upham, Boston, Mass., the selling agents of the Association.



## MEMBERS OF THE ASSOCIATION.

---

All officers are *ex-officio* members of the Association, but persons serving on the Department Committees may or may not be members of the Association.

In the list herewith submitted the annual and life members are given alphabetically, and the honorary and corresponding members according to nationality. The only distinction between honorary and corresponding members is that the former reside in the United States, and the latter in foreign countries. *It was voted at a meeting of the General Council that the "Journal" of the Association shall not be sent to any annual member who has not paid his dues for the year in which the convention is held which is reported in the "Journal."* *It was subsequently voted at a meeting held at Woodmont, Conn., July 6, 1898, that the General Secretary be permitted to use his discretion in carrying into effect this resolution.*

## BUSINESS OF 1905.

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The American Social Science Association held its Forty-third General Meeting at Boston, Mass., beginning Thursday morning, May 11, and closing with the session of Saturday morning, May 13. The proceedings of the convention were carried on in Huntington Hall, which was kindly placed at the disposal of the Association by the Faculty of the Massachusetts Institute of Technology.

Little formal business was transacted at this meeting of the Association. It was deemed expedient to defer the consideration of the routine affairs of the Association until the meeting of the General Council early in the fall.

The absence of Secretary Root in Europe during the summer of 1905 has left the work of editing the *Journal* to be done, as it was for many years before 1899, by the former General Secretary, Mr. Sanborn. The material had been carefully collected by Mr. Root, and the task was a pleasant one, in view of the instructive character of the papers. No attempt was made to report the debates stenographically, and the abundance of papers read left less time than usual for discussion.

The editor in charge is struck, in looking over the long list of our publications, with the great variety of topics treated during the forty years' life of the Association and the high excellence of most of the papers. Adapted usually to the varying needs of the time, there are yet many which are of permanent importance, and which, if preserved in libraries, will be useful for reference in future years. It is therefore urged upon librarians, since the editions of the *Journal* are small, to secure copies of the series before they go out of print.



CONSTITUTION, BY-LAWS,  
LIST OF OFFICERS, MEMBERS, ETC.,  
OF THE  
American Social Science Association  
SEPTEMBER, 1905.



## CONSTITUTION.

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I. This society shall be called the AMERICAN SOCIAL SCIENCE ASSOCIATION.

II. Its objects shall be classified in five departments: the first, of Education and Art; the second, of Health; the third, of Trade and Finance; the fourth, of Social Economy; the fifth, of Jurisprudence.

III. It shall be administered by a President, as many Vice-Presidents as may be chosen, a Treasurer, a Secretary, and a Council, charged with general supervision; five Department Committees, established by the Council, charged with the supervision of their respective departments; and such Local Committees as may be established by the Council at different points, to serve as branch associations. *The Council shall consist of President, Treasurer, Secretary, First and Second Vice-Presidents, the Chairman and Secretary of each Department, and ten Directors, with power to fill vacancies and to make their own By-laws.* The President, Vice-Presidents, Treasurer, Chairman, and Secretaries of Departments, and Directors shall be chosen annually by members of the Association, and shall hold office till their successors are chosen. The President, or in his absence a Director, shall be chairman of the Council. The Chairmen of the Local Committees shall be chosen at the pleasure of their respective committees. Whenever a Branch Association shall be organized and recognized as such by the Council, its President shall be *ex officio* one of the Vice-Presidents of the American Association, and, together with the Secretary and Treasurer, shall be entitled to all the privileges of membership in that Association. And, whenever a Local Department shall be organized and recognized as such by the Council, its Chairman shall become *ex officio* a member of the parent Association. The Chairman and Secretary of each Department, with the consent of the President of the Association, may appoint such special Department Committees as they may think best. The General Secretary shall be elected for three years, unless he resigns, or is removed by a two-thirds vote of the members present and voting in a regular meeting of the Council; and out of his compensation he may pay the salary of an Assistant Secretary, who may also be Secretary of one Department.

IV. Elections to membership shall be made by Standing Committee appointed by the Council in such manner as Council may provide. Any person so elected, and on payment of annual membership fee of five dollars, may continue a member by paying annually such further sum as may be fixed at the Annual Meeting of the Association, not exceeding ten dollars. On payment of one hundred dollars any person may become a life member, exempt from assessments. Honorary and corresponding members may be elected and exempted from the payment of assessments.

V. The Council shall have sole power to call and conduct General Meetings, and to publish the Transactions and other documents of the Association. The Department Committee shall have power to call and conduct Department Meetings.

VI. No amendment of this Constitution shall be made, except at an annual meeting, with public notice of the proposed amendment.



## BY-LAWS OF THE ASSOCIATION.

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[NOTE.— At a meeting of the Council of the Association, held May 9, 1900, at Washington, a committee of three was appointed to revise the Constitution and formulate By-laws to be considered and adopted by the Council at the earliest opportunity. That committee consisted of the Hon. S. E. Baldwin, the Hon. Francis Wayland, and the General Secretary.

At a subsequent meeting of the Council of the Association, held in New Haven, Conn., Oct. 12, 1900, this committee reported the following By-laws, which were unanimously adopted by the Council. Since the Constitution confers upon the Council power to enact its own By-laws, no further action by the Association is necessary.]

### ARTICLE I.

#### ORDER OF BUSINESS.

The following order of business shall be observed at all meetings of the General Council of the Association :—

- |                                  |                           |
|----------------------------------|---------------------------|
| (a) Reading of minutes.          | (d) Report of committees. |
| (b) Report of Treasurer.         | (e) Unfinished business.  |
| (c) Report of General Secretary. | (f) New business.         |

### ARTICLE II.

#### QUORUM.

The quorum of the Council at all regular and special meetings shall consist of five members, of whom three shall be of the *ex-officio* members of the Council.

### ARTICLE III.

#### VACANCIES.

SECTION 1. A committee shall be appointed on the first day of the general session of the Association to nominate officers, and such committee shall report upon the morning of the last day of the general session.

SECT. 2. The President may fill any vacancy occurring during the year in any office.

### ARTICLE IV.

#### AMENDMENTS.

The By-laws of the Association may be altered, amended, or repealed by the Council at any meeting by a two-thirds vote of the members present.



## ARTICLE V.

## TREASURER.

SECTION 1. It shall be the duty of the Treasurer to forward bills for annual dues on the first day of January of each successive year, and to meet all bills for printing, publishing, salaries, etc., on presentation of vouchers approved by President or First Vice-President, and the General Secretary.

SECT. 2. No funds shall be set apart for permanent investment without vote of Council; and all funds so set apart may be invested by the Treasurer at his discretion.

SECT. 3. The President or First Vice-President may draw on the Treasurer in favor of the General Secretary at any time for such sums, not exceeding one hundred dollars at any one time, as the President or First Vice-President may deem necessary to meet any proper expenses incident to the management of the Association or the proceedings of the Committee on Elections to Membership.

## ARTICLE VI.

## PRINTING.

SECTION 1. The selection of papers for publication in the *Journal* shall be left with the President and General Secretary, the latter serving also as editor of the *Journal*, and with the Heads of Departments. The Chairman of each Department will indicate to the General Secretary what papers, in his judgment, are available for publication in the report of proceedings.

SECT. 2. It shall be the duty of the General Secretary to print and distribute such information concerning the objects and purposes of the Association as may be useful in securing new members.

SECT. 3. It shall be the duty of the General Secretary to publish and distribute a cloth-bound copy of the annual *Journal* of the Association to each member in accordance with provisions under article referring to *Memberships*. Each essayist will be entitled to twenty-five reprints of his paper at the expense of the Association, on condition that his application is placed on file prior to the printing of his paper.

SECT. 4. If, in the judgment of the Treasurer and General Secretary, the funds of the Association will not justify publication in cloth, the current edition of the *Journal* shall appear in paper. The uniform date of publication shall be within six months of the Annual Meeting of the Association. Distribution of the *Journal* shall be effected as soon thereafter as possible.

## ARTICLE VII.

## MEMBERSHIPS.

SECTION 1. Elections to membership shall be made in accordance with provisions contained in Article IV. of the Constitution.

SECT. 2. After initial payment of assessment fee, all members in arrearages for the next following fiscal year of the Association shall not be entitled to the

*Journal.* Failure to remit annual dues for two consecutive years shall result in loss of membership in the Association. The General Secretary, however, may exercise his discretion as to the application of this rule in given cases.

## ARTICLE VIII.

### SALARIES.

The General Secretary shall be paid the amount of his salary in quarterly instalments upon the first days of October, January, April, and July, respectively; and he shall draw upon the Treasurer at his discretion such sums as may be allotted by vote of Council for clerical assistance.

# OFFICERS OF THE ASSOCIATION.

1904-1905.

*President*, JOHN GRAHAM BROOKS, Cambridge, Mass.

*Honorary President*, F. B. SANBORN, Concord, Mass.

*First Vice-President*, Hon. OSCAR S. STRAUS, LL.D., New York City.

*Second Vice-President*, Hon. FREDERICK J. KINGSBURY, Waterbury, Conn.

## DIRECTORS.

*President* CHARLES W. ELIOT, LL.D., Cambridge, Mass.

W. A. GILES, Esq., 64 Borden Block, Chicago, Ill.

Hon. CARROLL D. WRIGHT, LL.D., Worcester, Mass.

EUGENE SMITH, Esq., New York City.

BOOKER T. WASHINGTON, Esq., Tuskegee, Ala.

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Hon. C. S. HAMLIN, Boston, Mass.

*Prest.* JOHN H. FINLAY, LL.D., Coll. City of New York, New York City.

*Prof.* HARRY A. GARFIELD, Princeton, N.J.

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Hon. WILLIAM T. HARRIS, LL.D., Washington, D.C.

F. B. SANBORN, Concord, Mass.

*Prest.* J. B. ANGELL, LL.D., Ann Arbor, Mich.

Hon. A. D. WHITE, LL.D., Ithaca, N.Y.

Hon. JOHN EATON, Washington, D.C.

*Mr.* GEORGE WENTINGHOUSE, Washington, D.C.

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Hon. JOHN W. FOSTER, LL.D., Washington, D.C.

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GRACE PECKHAM MURRAY, M.D., 10 E. 60th St., New York.

H. HOLBROOK CURTIS, M.D., 118 Madison Ave., New York.

*Rev.* F. G. PEABODY, D.D., Cambridge, Mass.

*Prof.* GEORGE L. RAYMOND, LL.D., Princeton, N.J.

*Mrs.* VIRGINIA B. MCKELWAY, 121 Hicks St., Brooklyn, N.Y.

Hon. C. A. WOODS, LL.D., Marion, S.C.

*Rev.* JOSEPH ANDERSON, D.D., Waterbury, Conn.

*General Secretary*, FREDERICK STANLEY ROOT, M.A., 291 Orange St., New Haven, Conn.

*Treasurer*, W. C. LEGENDRE, 59 Wall St., New York.

## *Department Officers.*

I. *Education and Art.*—*Mr.* S. T. DUTTON, Teachers' College, New York City, *Chairman*; *Mr.* JAMES P. MUNROE, 79 Summer St., Boston, Mass., *Secretary*.

II. *Health.*—SAMUEL H. DURGIN, M.D., Boston, Mass., *Chairman*; *Dr.* HIBBERT W. HILL, Boston, Mass., *Secretary*.

III. *Social Economy.*—JOHN GRAHAM BROOKS, Cambridge, Mass., *Chairman*.

IV. *Jurisprudence.*—Hon. CHARLES BULKLEY HUBBELL, 31 Nassau Street, New York City, *Chairman*; *Prof.* ISAAC FRANKLIN RUSSELL, 120 Broadway, New York City, *Secretary*.

## LIFE MEMBERS.

---

Extract from Constitution: "On payment of one hundred dollars any person may become a Life Member, exempt from assessments."

- Angell, Mr. George T., 19 Milk St., Boston, Mass.  
Baldwin, Hon. S. E., LL.D., New Haven, Conn.  
Barnard, Mrs. James M., 140 Beacon St., Boston, Mass.  
Blatchford, Mr. J. S., Boston, Mass.  
Bradford, Mr. Gamaliel, 502 Beacon St., Boston, Mass.  
Dodge, Mr. Charles C., 33 Broadway, New York City.  
Dodge, William E., Jr., 99 John St., New York City.  
Eliot, Mrs. Samuel, Boston, Mass.  
Endicott, William, Jr., Boston, Mass.  
Hermann, Mrs. H., 59 W. 56th St., New York City.  
Hoyt, Hon. J. W., The "Victoria," Washington, D.C.  
James, Hon. D. Willis, 45 Wall St., New York City.  
Kingsbury, Hon. Frederick J., Waterbury, Conn.  
Letchworth, Mr. W. P., Portageville, N.Y.  
Libbey, Mr. Jonas M., New York City.  
Sanborn, F. B., Concord, Mass.  
Sanborn, Mrs. Louisa L., Concord, Mass.  
Smith, Prof. Goldwin, LL.D., Toronto, Canada.  
Stokes, Mr. Anson Phelps, 45 Cedar St., New York City.  
Stokes, Mr. I. N. Phelps, 47 Cedar St., New York City.  
Stokes, Mr. Thomas, 47 Cedar St., New York City.  
Straus, Hon. Oscar S., 42 Warren St., New York City.  
Villard, Mrs. Henry, 145 W. 38th St., New York City.  
Ward, Mr. J. Q. A., 119 W. 52d St., New York City.  
Ware, Mr. William R., 130 E. 27th St., New York City.  
White, Hon. Andrew Dickson, LL.D., Ithaca, N.Y.  
Wolcott, Miss Ella L., Elmira, N.Y.  
Young, Mr. J. Edward, 130 William St., New York City.

## HONORARY AND CORRESPONDING MEMBERS.

---

### *In America.*

Moncure D. Conway, Esq., 22 E. 10th St., New York City.

Prof. J. Irving Manatt, Providence, R.I.

Major-Gen. O. O. Howard, Burlington, Vt.

Edmund A. Meredith, Esq., care The Toronto Income Trust Co., Yonge St., Toronto, Can.

Hon. Domingo F. Sarmiento, Buenos Ayres.

### *In Great Britain and Ireland.*

Sir Walter Crofton, The Close, Winchester.

Lord Radstock, London.

Henry Dunning McLeod, Esq., Oxford and Cambridge Club, London.

Alfred Field, Esq., Birmingham.

Thomas H. Barker, Esq., Manchester.

Henry W. Acland, M.D., F.R.S., Oxford.

Miss Louisa Innes Lumsden, Glenbog, Rhynie, Scotland.

Miss J. Frances Dove, Wycombe Abbey, Bucks, England.

Lord Hobhouse, 15 Bruton Street, London.

Prof. James Bryce, M.P., London.

Geoffrey Drage, Esq., London.

### *In France.*

M. August Laugel, 12 Rue de la d'Anjou, Paris.

M. Émile Cacheux, 25 Quai St., Michel, Paris.

M. F. Buisson, Bd. 163 Montparnasse, Paris.

M. Émil Levasseur, 24 Rue Monsieur le Prince, Paris.

M. Arthur Raffalovich, 19 Avenue Hoche, Paris.

M. Pierre Claudio Jannet, 22 Rue Oudinot, Paris.

### *In Italy.*

Signor Martino Beltrani-Scalia, Rome.

Prof. C. F. Gabba, Pisa.

\*Prof. Alberto de Errea, Cavaliere

della Corna d' Italia, Venice.

### *In Belgium.*

M. Van de Rest, Brussels.

[The names on this list marked with a (\*) are those of persons who cannot be found by post-office officials.]

## LIST OF ANNUAL MEMBERS, 1905.

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[NOTE.— With reference to this enrollment some explanations are essential, and they are as follows:—

The "National Institute of Arts and Letters," organized under the auspices of the American Social Science Association, but now an independent body, still retains a certain connection with the Association in the form of Associate Memberships. The following clauses from vote passed at the Saratoga meeting of the Association define the existing status:—

*Voted*, That the members of the Institute be *ipso facto* associate members of the Association in return for the courtesy of the Institute in making members of the Association associate members of the Institute.

In the list subjoined, such associate members are marked with a *star*. In the matter of academic titles, such only are given as are known. Members are earnestly solicited to communicate with the editor at once respecting academic titles, and also to correct any errors which may be found upon the roll. All resignations should also be promptly reported to the General Secretary, 291 Orange St., New Haven, Conn.]

- |   |  |
|---|--|
| <p>*Abbey, Edwin A., Fairford, England.<br/>           Abrahams, A., 800 St. Marks Ave., Brooklyn.<br/>           *Adams, Henry, 1603 H St., N.W., Washington, D.C.<br/>           Adams, Oscar Fay, 41 Marlboro St., Boston.<br/>           Addams, Miss Jane, Hull House, Chicago.<br/>           Ade, George, New York City.<br/>           Agar, John G., 31 Nassau St., New York.<br/>           Aiken, W. M., 33 Union Sq., W., New York City.<br/>           *Alden, Henry M., care of Harper &amp; Brothers, New York.<br/>           Aldrich, Charles F., Home Insurance Building, Chicago.<br/>           Aldrich, Nelson W., Providence, R.I.<br/>           *Aldrich, Thomas Bailey, Boston, Mass.<br/>           Aldridge, George W., Rochester, N.Y.<br/>           *Alexander, John W., 120 Broadway, New York City.<br/>           *Allen, James Lane, 66 5th Ave., New York.<br/>           Allen, Thomas, 12 Commonwealth Ave., Boston.<br/>           Allen, Miss Viola, 27 W. 93d St., New York City.</p> | <p>Allen, William A., Madison, Neb.<br/>           Allison, Hon. W. B., 1124 N St., Washington, D.C.<br/>           Ames, Gen. Adelbert, Lowell, Mass.<br/>           Ames, James Barr, Cambridge, Mass.<br/>           Amory, Robert, M.D., 279 Beacon St., Boston.<br/>           Anderson, E. Ellery, 27 William St., New York.<br/>           Anderson, Rev. Joseph, D.D., Waterbury, Conn.<br/>           Anderson, Warren E., Pensacola, Fla.<br/>           Anderson, Winslow, M.D., 1220 Sutton St., San Francisco.<br/>           Andrews, Charles, Syracuse, N.Y.<br/>           Andrews, Hon. Charles B., LL.D., Litchfield, Conn.<br/>           Anthony, Prof. Wm. A., Cooper Union, New York.<br/>           Archer, Frederick, Carnegie Institute, Pittsburg, Pa.<br/>           Ashley, Prof. Clarence D., LL.D., N.Y. Un. Law School, New York.<br/>           Ashley, George Hall, 15 W. 22d St., Indianapolis, Ind.<br/>           Ashmore, George C., M.D., 794 Republic St., Cleveland, Ohio.<br/>           Atwood, Charles E., M.D., "Bloomingtondale," White Plains, N.Y.<br/>           Atwood, I. M., 189 Harvard St., Rochester, N.Y.</p> |
|---|--|

- Audsley, G. A., Bowling Green Office,  
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- Austen, Peter T., 218 St. Johns Pl.,  
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- Avery, A. C., Morganton, N.C.
- Avery, Edward H., Auburn, N.Y.
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Chicago.
- Ayers, Howard, University of Cincinnati,  
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- Bacon, Robert, 33 Wall St., New  
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- Baker, Prof. George S., 190 Brattle  
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- Bakewell, Prof. Charles Montague,  
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- Bangs, John Kendrick, Yonkers, N.Y.
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- Bradley, A. C., 2013 Q St., N.W.,  
Washington, D.C.
- Braislin, Miss Alice G., Burlington, N.J.
- Branner, J. C., Stanford University,  
Palo Alto, Cal.
- Brantley, W. G., Brunswick, Ga.
- Breaux, Hon. Joa. A., 1728 Canal St.,  
New Orleans.
- Breed, William J., 1227 W. 8th St.,  
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- Brett, George P., 66 5th Ave., New  
York.
- Brevoort, James R., 390 N. Broad-  
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**CONTENTS OF NUMBER TEN.**—Transactions of the Association, 1870. I. American Education, 1869-70. Annual Address of President Gilman. II. The Method of Study in Social Science—William T. Harris. III. Report of the Department of Education—Mrs. I. T. Talbot. IV. The Voting of Women in School Elections—A. P. Peabody. V. Relations of Christianity to the Common Law—M. B. Anderson. VI. The Place of the Practical Man in American Public Affairs—Hamilton Andrews Hill. VII. Chinese Immigration—S. Wells Williams. VIII. The United States and the Declaration of Paris—Theodore S. Woolsey. IX. Recent Changes in our State Constitutions—Simeon E. Baldwin. X. The Policy of Patent Laws—Frederic H. Betts. XI. The Sewerage of the Smaller Towns—George E. Waring, Jr. XII. Industrial Arbitration and Conciliation—Joseph D. Weeks.

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# Sever Fund

OPENING SESSION, 1905.

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## PAST AND PRESENT IN SOCIAL SCIENCE.

AN ADDRESS BEFORE THE AMERICAN SOCIAL SCIENCE ASSOCIATION AT ITS GENERAL MEETING IN BOSTON, MAY 11, 1905, BY F. B. SANBORN, HONORARY PRESIDENT.

*Ladies and Gentlemen,*—When the sombre and epigrammatic Roman historian, Tacitus, sat down, after fifteen years of the heavy, suspicious tyranny of Domitian, to write the life of his father-in-law Agricola (a model of concise biography), he indulged in some (oft-quoted) reflections on the sad influence of such periods of oppression on the human intellect. Spies and prosecutions had deprived illustrious Romans in senatorial and knightly rank, of free speech even in conversation. The lecture-rooms were shut, the Platonic and Stoic philosophers banished, and their books burnt in the Forum, "as if, forsooth," says the ironical author, "the notion ran that the same fire could silence the voice of the Roman people, stifle freedom of debate in the Senate, and abolish the consciousness of mankind." "We might even," he adds, "have lost our memory when our lips were sealed up, had it been as much in our power to forget as to keep silence." Now, under a good emperor, the weight was removed, but the spring of intellectual freedom was slow to regain its tension and rebound. Many had paid the debt of nature. "A few of us have outlived it,—survivors, if I may say so, not only of our friends, but of ourselves, so many years have been torn in silence from the pages of existence,—years that have brought youths to old age, and old men to the bourne and last limit of permitted life." Still, he will try, says Tacitus, not unwillingly, though with rude and artless speech, to recall the remembrance of past servility, and bear witness to the blessings of the present time.

You have imposed on me a duty at once pleasant and

mournful, like the music of Caryl in Ossian, not merely to revile the past and glorify the present with Tacitus, but to remember those, by far the majority in our long list of members, who have left to our assembly so very few of the earnest band that, forty years ago, began the work which younger men and women are now carrying forward. They were persons always active and often famous in their day and generation, who responded to the call which I had the honor to sign and issue, as the youngest among seven, members of the first Board of State Charities, in August, 1865. They were of New England almost wholly, and of Massachusetts mainly, who met in yonder State House in October, not quite forty years ago, to be called to order by the beloved and long lamented war governor, John Albion Andrew. Their names remain, but borne by sons and grandsons and great-grand-daughters,—Allens, Apthorpes, Barnards, Bradfords, Boutwells, Dalls, Davises, Earles, Eliots, Forbeses, Garrisons, Gilmans, Hills, Howes, Higginsons, Hubbards, Jacksons, Lees, Lodges, Ly-mans, Mays, Mortons, Newells, Olivers, Paines, Parkmans, Pea-bodys, Phillipses, Pierces, Quincys, Russells, Rogers, Ropes, Sewalls, Shaws, Sullivans, Talbots, Villards, Walkers, Wares, Wellses, Whitmans, Winthrops, Wolcotts, Woods, Wrights,—an alphabet of genius, goodness, and public spirit. Does not every one of these names, and twice as many more which I might pronounce, recall some ancient or recent loss that the whole country, as well as this community, had reason long to lament?

And what was the condition of the country when our three hundred assembled here in Boston to plan measures of public improvement? Just emerged from a long civil war, victorious, indeed, but over misguided brethren, and at enormous sacrifice of life and property, the free institutions of America almost all needed to be reconstituted, or carried forward to a result as gratifying as the newly won peace and freedom had been. In every department of our quadrilateral of education, health, jurisprudence, and finance, principles were to be settled, for wild notions were prevalent. The education of the freedmen, sanitary science in its mere rudiments (even the bacillus was not yet recognized, and cholera was a disease to be feared), penal and financial legislation mainly awaiting the advent of

good sense,—such were some of the general problems confronting us. Charities were unorganized, Prison Science was unborn, political amnesty unrecognized, and medicine had but just begun, in America, to specialize. Trade schools were beginning to be talked about, and in New England the Pennsylvania Building Associations (co-operative banks) were almost unheard of, where now there are some hundreds. Even our name, "Social Science," was almost unheard, and required much definition and explanation, as it still does, here and there.

It seems that Robert Owen, the English socialist, for whose presentation at the English court Lord Melbourne thought it needful to make an explanation, was the first user of the phrase "social science" in English. But the French positivist, Comte, was employing it about that time, in a different sense, as if there was a science of society not less strict than any of the sciences. The European philanthropists, before Lord Brougham initiated the British Social Science Association in 1856-57, had spoken of "social sciences" in the plural, and applied the term to those numerous and rather indefinite branches of knowledge which concern the existence and activity of mankind in civil society. I suppose it was in this sense, and following the lead of the British Association, that we employed the phrase. But it gave us trouble, more or less. Some dull people, easily shocked by that bugbear of modern society, Socialism (which hardly any two persons understand in the same sense), stood aloof from us as "Socialists." Others said, with more point, but captiously, "Do you mean to assert there is a *science* of society in the same sense as of mathematics, or even of chemistry and physics?" To which we could only reply, meekly, that provisionally we would use the strict term more loosely, for convenience. What we really meant, most of us, was to apply the methods of research and reasoning to those institutions and necessities of society which we saw daily treated unreasonably or merely by tradition. Thus we appealed at first to those persons interested in education, economics, philanthropy, and law or legislation, who had seen for years what needed to be done, and hoped by combination with each other to bring about more quickly the desired change. We elected honorary and corresponding members at home and abroad, with a view to obtaining from them

those advices and suggestions which the more advanced state of civilization in several European nations, and in certain parts of our own country, seemed to warrant; and we were not wholly disappointed in this hope. In one celebrated case, that of the aged Lord Brougham, we even got more than we bargained for. In responding to my notification, as Corresponding Secretary, of his election to membership, he wrote me a letter of some length, taking the United States to task for its conduct of the slavery question during and after the Civil War, and pointing out the way which he would have followed if our national and social affairs had been placed by divine Providence in his Lordship's hands. Professor William Barton Rogers, then at the head of the Institute of Technology, which he founded with so much wisdom and foresight, who was our first President, heard this instruction with that wise and gentle smile so natural to him, and did not consider any reply needful.

Our early meetings were of necessity held in Boston, because the great majority of our first members were conveniently near. But in our second year, 1866, we met at New Haven and enjoyed the hospitalities of Yale College, and in December, 1867, we held our first New York meeting, in the hall of the Young Men's Christian Association, where the two secretaries, the late Dr. Samuel Eliot and myself, duly made our annual reports. Dr. Eliot's did not come into my hands, but my own, never printed in any permanent form, has remained with me among many time-worn manuscripts, and I may quote from it a few passages, to indicate what the year 1867 had brought forth of interest to our youthful Association, and how some of our members, long since deceased, were engaged. The report said:—

Although our Association, as an organized body, cannot claim to have exerted a very wide influence during the year, yet it has not been idle, while many of its members, in their individual capacity, or in some of the many forms of associated activity which the freedom of our institutions opens to us, have rendered important and even conspicuous service. In the general work of adapting the machinery of our national government to the enormous changes brought about by the recent war, several of our associates have a leading part. General Howard is still at the head of the Freedmen's Bureau, an organization which has done more than we can well esti-

mate to bring order out of the chaos into which the Rebellion threw the Southern portion of our country. Except in the wise provision made for the emancipated serfs of Russia, where shall we find a policy so comprehensive, for the regulation of such vast interests, personal, political, and social, as that intrusted to the integrity, patience, and discretion of General Howard? His success may best be seen by the obstacles he has overcome, and by the general and peaceful progress made by the freedmen under his direction.

Another honorary member, Dr. Henry Barnard, a veteran in the cause of public instruction, has been placed at the head of the newly established Bureau of Education, with the task, which to any other would be a most difficult one, of organizing a department that has thus far been almost wholly neglected by the national government.

I may pause here to say that two of Dr. Barnard's successors in this work—General John Eaton and the present Commissioner, Dr. W. T. Harris—were many years active members of our Association, and the first was our President. Dr. Harris would have been, had he not persistently declined the position. Both of them have called on us for furtherance in their extensive and expanding work, and I think it an occasion for regret that we allowed the scruples of a few of our members to hinder us, as an Association, from following up our initiative in urging upon Congress a national provision for the education of the freedmen and their children, in common schools, high schools, and industrial training,—the field where private munificence has done so much, but less than half of what the resources of the nation could have done. In the present disturbed and, I may say, distracted state of opinion at the South on this question, we may see, I think, the natural consequence of the nation's neglecting this opportunity to perform a duty distinctly national.

I resume quotation:—

It is worthy of remark that, while one of our members (Mr. Boutwell), gave its first form and efficacy to our national Bureau of Internal Revenue, another member, at present one of our Vice-Presidents (Mr. David Ames Wells), has rendered an equal service in devising and elucidating a system of taxation which should co-ordinate and harmonize our import duties with our inland taxation, now so often conflicting with and neutralizing each other.



The fact that the wisdom of Mr. Wells (afterward one of our most energetic Presidents) was itself neutralized and nullified, in great part, by selfish private interests lobbying at Washington, does not diminish the value of his effort to make taxation reasonable, and prevent those accumulations of harmful surplus which in public treasuries, or in the coffers of gigantic insurance companies, are so certain to ensure extravagance and entail corruption. Mr. Wells did not live to see his well-digested plans carried out, but their underlying principle is making its way into revenue systems wherever, in our unsystematic country, real progress is made in adjusting the needful burdens of taxation. I now go on:—

Equally national in its character, though carried on under the less formal direction of private munificence, is the work of increasing educational facilities in the Southern States, in the manner pointed out by George Peabody, the benefactor of two nations. Two eminent past members of our executive committee (Mr. R. C. Winthrop and Rev. Dr. Sears) are among the active dispensers of this unexampled charity; and their well-matured scheme, combined with the long-established methods of the Freedmen's Commission, will go far towards supplying the South with the means of ultimately educating the whole class of unlettered persons there.

Another of our Vice-Presidents (Professor T. W. Dwight), in conjunction with a most diligent colleague (Rev. Dr. E. C. Wines), has seen the completion of an undertaking which, in its aims and results, warrants admiration. Appointed in 1865 by the New York Prison Association to report the condition of the prisons and reformatories of the United States and Canada, Dr. Wines and Professor Dwight have visited a great number of them, and collected invaluable information, till now inaccessible. Within the last few months their copious report has been given to the public.

This topic of prison reform continued to occupy the attention of many of our Association for years, drawing forth essays and debates from Brockway, Wines, the father and son, Wayland, Warner, Brinkerhoff, and others, who after 1870 joined the National Prison Association, founded by the elder Dr. Wines and his associates in 1870, at the Cincinnati Prison Congress, and reorganized, after Dr. Wines's death, at Saratoga in 1882. At the very first of our general meetings, held at the Lowell Institute in Boston in December, 1865, I had read a letter

from Captain Maconochie to our reformer of education, Horace Mann, and sent me by his widow,—Maconochie being the actual father of the reformed prison system afterwards set up in Ireland by Crofton, and at Elmira (with many improvements) by Mr. Brockway. In this body and the Prison Association we kept up the agitation and indoctrination, until what we now properly call Prison Science has become the accepted system for more than half the States of our Union, and is viewed with favor over half Europe, to the discountenancing of both the older systems of Auburn and Philadelphia,—the congregate and the cellular.

The year 1867 proved to be our high-water mark in practical achievement for many years. It saw the prison reform movement well on foot, the instruction of the deaf by articulation (which had been debated at New Haven) well begun in Massachusetts and since extended considerably through the country; it saw the chartering of an Infant Asylum here, which for the first time checked the extreme mortality of motherless infants, and the establishment of boards of public charities in New York, Ohio, and perhaps elsewhere. In education new plans were formed that have been taking effect ever since, and in finance and taxation some evils were checked and some improvements made. The politics of the country were wrangling and confused, for it was the period of Southern reconstruction; but all the more, perchance, it was easy to carry measures of social science through State legislatures. The enthusiasms of the war period had not wholly abated, and the earnestness with which our Association was formed still animated its members. Then came a period of comparative stagnation, when our activity was in abeyance, until in the autumn of 1872 the late James Barnard of Boston and some of his friends came to the rescue, and the local work in this city was reorganized, with Professors Agassiz and Peirce of Harvard University, and others who had not been actively interested before. Soon afterwards George William Curtis was chosen President, and held the position while he was also in the front of the contest for Civil Service Reform, in which the initial campaign was organized by our Association during the vigorous secretaryship of the late Henry Villard. It was first suggested, however, as I remember, by our second Presi-

dent, the predecessor of Mr. Curtis, Dr. Samuel Eliot; and when Mr. Curtis, as chairman of the first Civil Service Commission, announced its first success,—the conversion of President Grant to the reforming principle,—he wrote to Dr. Eliot (Dec. 20, 1871),—

The Social Science Association has a very large share in the result of yesterday,—the message of the President announcing the Civil Service Reform,—and I send you with all my heart one of the earliest copies of our Report upon which I can lay my hand.

It is worth mentioning that, in our very first general meeting for the reading of papers, William P. Atkinson, brother of our still active member, Edward Atkinson, read a paper on the English Civil Service and its Methods, which were in 1865 still on trial, and encountered much opposition, as similar methods long did in this country. Indeed, President Grant, after once putting his hand to the plough, turned back, in the stress of politics and personal friendship, and left Mr. Curtis unsupported, so that the new reform was at its lowest point of depression in 1873, when we elected Mr. Curtis President. We kept up the contest, as did Mr. Curtis, so that in 1877 he became president of the New York Civil Service Reform Association, and in 1881 of a National Reform League, both of which carried forward more actively the work for which our Association, from its more general character, was less adapted.

In this year, 1874, however, we laid the foundation of another organization, the National Conference of Charities, which has existed, with growing strength and much official support, for more than thirty years, and has introduced better civil service methods into the public charities and corrections of the United States. The first of these annual conferences was called to meet in New York in May, 1874, at the general meeting where Mr. Curtis presided, by the committee of our then new Fifth Department of Social Economy, of which Professor Rogers was the first chairman. The New York Conference of that year was small, only four or five State Boards being then represented. But among them were the active and progressive Boards of New York, Pennsylvania, Wisconsin, and

Massachusetts; and they took pains to extend the infant Conference until, by 1879, it became strong enough to detach itself from our parent body, and hold its meetings, then become quite large, apart from our General Meetings, with which the Conference was connected at Detroit, twice at Saratoga, and finally at Cincinnati in 1878. Of the founders of this important national body, which this year will hold its session of a week at Portland, Ore., in July, some six or eight survive, including the present speaker, Mr. Letchworth of New York, the veteran Mr. Elmore of Wisconsin, Dr. F. H. Wines of Illinois, Mr. Brockway, then of Michigan, General Brinkerhoff of Ohio, and one or two others.

It was in 1874, also, that the late Josiah Quincy, grandfather of the last mayor of Boston of that name, drew the attention of our Association to the little known organizations called "Building Associations" existing in Pennsylvania, New Jersey, Maryland, and Ohio. This proved to be for twenty years one of the most fruitful topics for our meetings, and it was by the activity of several of our members—notably Mr. R. T. Paine and Gamaliel Bradford of Boston—that these modest financial institutions (really co-operative banks) were established in Massachusetts, where now 130 of them exist and flourish. In the whole country their number is between five and six thousand, and they now flourish in two-thirds of the States, partly in consequence of the investigations made and the propaganda promoted by some twenty of our members, including Colonel Carroll D. Wright, afterwards our President.

At one of the last annual meetings held in Boston for some twenty-five years, in January, 1879, Mr. Quincy, who first introduced this subject to our notice, wrote as follows:—

WOLLASTON, MASS., Jan. 5, 1879.

*Dear Sir,*—I shall probably not be able to be present at the annual meeting of the Social Science Association on Wednesday. As to my two pet schemes, one of them, Co-operative Fund and Loan Associations, is, I think, fully established. There are a dozen in this State that I understand are doing well. The two in Boston have together nearly one thousand members, and loan \$5,000 or \$6,000 a month. The other scheme, Co-operative Stores, promises well. More than half

the stock has been taken, and subscriptions are coming in daily, which, considering that the shares are but \$4 each, and most take but a single share, ought to be satisfactory for a new enterprise.

It was fated, however, that only the first of these two schemes should brilliantly succeed in this country. The co-operative stores, so prosperous in England and elsewhere, have not had good fortune here. But it has been otherwise with Mr. Quincy's first "pet scheme," as he called it. Beginning in this country some seventy-four years ago, at Frankford, now a part of Philadelphia, with one small society, these co-operative banks have become broadly national in their distribution, though strictly local in their administration; as they ought to be, if they would avoid the risk of such failure as has already overtaken many of the too ambitious "national" loan associations. When the United States League of these local Associations met last year in Michigan, the secretary, Mr. Cellarius, exhibited an interesting table, copied below, to show what was then the latest situation of the local

TABLE SHOWING THE NUMBER AND CONDITION OF THE CO-OPERATIVE BANKS  
(1903-04).

States.	Associa- tions.	Members.	Assets.	Increase.	Decrease.
Pennsylvania . .	1,196	313,193	\$117,861,779	\$3,975,759	—
Ohio . . . . .	731	301,460	101,221,442	—	\$9,729,815
New Jersey . . .	353	112,539	51,460,688	2,980,311	—
Illinois . . . . .	500	83,000	39,432,282	—	871,570
New York . . . .	300	90,429	33,342,475	—	543,267
Massachusetts . .	130	84,527	32,919,738	2,528,073	—
Indiana . . . . .	379	97,213	30,035,098	16,691	—
California . . . .	146	53,376	19,963,852	1,663,985	—
Michigan . . . . .	58	32,391	10,746,298	840,225	—
Missouri . . . . .	134	9,996	7,771,790	—	456,475
Louisiana . . . .	39	18,150	6,609,242	109,242	—
Iowa . . . . .	72	20,000	5,656,469	—	—
Nebraska . . . . .	59	20,446	5,343,429	585,136	—
Connecticut . . .	18	8,035	3,851,539	—	293,658
Wisconsin . . . .	53	13,250	3,819,768	223,835	—
Kansas . . . . .	40	11,259	3,417,114	297,596	—
Maine . . . . .	35	8,444	2,932,206	77,580	—
Tennessee . . . .	21	3,417	2,321,663	—	77,580
New Hampshire . .	15	5,175	1,753,560	13,444	—
Minnesota . . . .	16	2,200	1,066,680	—	—
All other States .	1,015	278,200	98,129,000	929,000	—
Totals. . . . .	5,308	1,566,700	\$579,556,112	\$2,338,098	(net increase)

societies in twenty States, individually presented, and in the rest of the country in one mass. Several things will be worthy of note in this table, which would not be much altered by the figures for 1904-05, not yet available. One is the large increase in assets in some States, and a considerable decrease in others, the latter resulting, in case of Ohio, from the change of several large and prosperous associations into trust companies. Another is the great number of shareholders (more than a million and a half), and their annual increase of more than 2 per cent. The total expenses of management of this business of nearly \$600,000,000 was less than 1 per cent.: the interest received on loans was nearly \$30,000,000. All this indicates general prosperity in these genuine "People's Banks," and fully verifies the hopes of Mr. Quincy six-and-twenty years ago.

In one of these distant States, Louisiana, which had not a single co-operative bank in 1879, we have the report for the present year, which shows forty-five of them in 1905 (instead of the thirty-nine in the table), and assets increased to \$7,423,968, or more than \$814,000 in a single year. And the Louisiana bank examiner, a State official, who gives these figures, adds:—

The Building and Loan Associations of Louisiana in the past twenty-five years have either erected, bought, or improved seven thousand homes at a cost of \$8,000,000, and there are to-day invested by them in homes for the citizens of this State more than \$7,000,000. You can thus form some conception of the incalculable amount of good that has been accomplished in this direction. Then, if we consider that this vast amount of money has been invested in homes by those who without them (in the main) could not have owned a home, and when we further consider the great good which flows from the softening and refining influences of the home life, we can have some small idea of the beneficent results that come from a careful, well-managed, and liberal building association.

This benefit extends also to negroes. At the Atlanta Conference, May 21, 1905, Mr. Henderson gave an interesting résumé of the conditions of the negro in Louisiana, saying:—

To sum up the situation, I should say that the people have, on the whole, caught the spirit of acquisitiveness, and are mak-

ing good progress in acquiring property and owning their own homes. The Building and Loan Associations have been of great service to them. So have the savings-banks. In the country, land is being acquired, in small portions especially, and an increasing number are renting or working land on shares, which is an excellent school for business training, and leads ultimately to ownership.

In Louisiana, as in other Southern States, the dangers which threatened the common schools seem less, but less and less will apparently be done for secondary, higher, and professional education. This demand must be met for years to come, probably, by the people themselves and the missionary societies. Private schools taught by graduates of our higher institutions and supported by the people are springing up throughout the State.

1. The people have learned how to earn, and also the importance of education. What they now need is the wisdom to use and to spend; how to invest not only in real estate, but in institutions for the common good and in innocent and mutual enjoyment. It is this practical moral education which is a condition to greater progress.

2. Greater protection of life and property involves the co-operation of the other race. Material progress is hindered by the lack of the sense of safety to life and property, owing to mob violence.

3. The Christian ministers and leaders of the two races must find some common platform in mutual co-operation. The Southern churches have not yet taken hold of this race question. Some of its difficulties cannot be solved without their co-operation. The homes and virtue of multitudes of our women who work out in service are at the mercy of the white men. Their husbands and fathers are unable to protect them while in this service. Unfortunately, white men do not regard illicit relations with colored women apparently as forbidden by the commandment against adultery. The colored people cannot remedy this situation themselves. It becomes the duty of the white people to take it up.

Mr. Starboro, one of the prominent foreign-born citizens of San Francisco, long active in promoting these banks, said lately:—

The wage-earners and middle-class people of California, through the building and loan associations, within the past thirty years have built thousands of homes and saved millions of dollars, which would otherwise have been squandered. Not a single member of my associations, numbering many

thousands, has ever left my office without receiving every dollar which he had paid in, and a reasonable rate of interest on the same, whether he remained in the association three months or three years.

Let us hope that the great life insurance companies, whose methods our Association for several years sought to improve, and in some States with success, may be able at the settlement of their accounts to make as fair a statement, and as Equitable an arrangement.

You will naturally infer, from this very incomplete statement of national movements which we initiated or have actively joined in, that the United States, at the formation of our society, was very ill supplied with important agencies for social and economic improvement. This would be a true inference. Imperfect as those agencies may yet seem, and incredibly as they are perverted and abused in the management of our great cities,—St. Louis and Philadelphia having lately furnished striking examples of this abuse,—we were much worse off in 1865, so far as the mechanism of administration went. Our people were probably more honest, and they certainly had less wealth to lose by the misgovernment of cities, the frenzies of finance, and the inequalities of taxation. When resigning the office of President of the Social Science Association in 1879, after holding it for several years, Mr. David Ames Wells drew a picture of what might be expected in the years then to come, which has only in part been justified, though it then seemed reasonable enough. He said:—

Never before in the history of the world were so many and so important questions—fiscal, economic, educational, sanitary, and moral,—pressing themselves upon the attention of the public. Social science questions have, through the force of recent circumstances, come to be *the* questions of the day, paramount to all others, and the ones on which parties and governments are to stand and be called into existence in the future. Indeed, it seems to me that since the year 1860, or the outbreak of our Civil War, a change has come over the habits and thoughts of men, and their methods of doing business, very much akin to what occurred at the epoch of the Crusades, and of the Reformation, or later through the American and French Revolutions. Old creeds and faiths are weakening, slipping away, or recrystallizing. The steamship, the



railroad, and the telegraph are breaking down the old and formidable barriers of nationalities, and for the purpose of business are making the whole world one country,—a condition of things under which the great fundamental truth of modern political economy, that nations and individuals are alike benefited and never injured by the prosperity of their neighbors, will be more than ever manifested. All methods of production and exchanging are also undergoing modification, with the certain result, which no legislation can prevent, even if it were desirable that it should, of economizing labor and material and the cheapening of production.

During and in consequence of these changes, and for years to come, there will be much of discomfort, and undoubtedly, also, of suffering, from the displacement of individuals from occupations, and their readjustment in new positions or locations. Millions of capital now useful and returning an income to their possessors are certain in the not distant future to be also made worthless, as the course of improvement requires that they shall be, in order that production may be cheapened and made better. But the ultimate result will be, undoubtedly, greater abundance, less poverty, and a higher elevation of the race. To forecast the course of economic agencies and events, to help make the burden of disturbance and change in occupation less grievous to the people, to help overcome that moral inertia among the masses which greatly prevents them from helping themselves and accommodating themselves with rapidity to the demands of progress, are all questions and problems pre-eminently within the domain of Social Science. And, if associated effort offers anything of advantage in the way of determining and disseminating truth over individual and isolated effort, then the American Social Science Association has the largest of opportunities before it for future public benefaction.

We certainly began our career with few of the public and private agencies which now exist in most States. In 1865 there was but one State Board of Charities in the whole nation; no State Board of Health with competent powers, no Lunacy Commission, no Prison Commission, no Societies for Good Government in cities and States, no reformed Civil Service, no colleges for the freedmen, and none for women except those pioneer experiments at Elmira and at Poughkeepsie (where Mr. Vassar's benefaction was just beginning to take effect); no negro suffrage, except in a few Northern States; no woman suffrage; comparatively few public libraries and art museums;

no National Bureau of Education; no general supervision of immigration; no Hull House or other neighborhood Settlement for social betterment; and, most wonderful of all, no women's clubs, such as are now numbered by thousands. In promoting nearly all these agencies of civilization, our society has been prominent, and our publications, though they have seldom reached a large circle of readers, will be found, on examination, to have covered the early stages of almost every movement for the betterment of the people, and often to have set the fashion for thousands of writers who may never have heard of our modest efforts. We have emulated, and in some measure we have merited, that amiable and magnanimous character which the poet Channing ascribed to his friend and neighbor Emerson, whose humility he respected by calling him Vernon:—

"So Vernon lived  
Considerate to his kind. His love bestowed  
Was not a thing of fractions, half-way done,  
But with a mellow goodness like the sun  
He shone o'er mortal hearts, and brought their buds  
To blossom early,—thence to fruits and seed.

"Forbearing too much counsel, yet with blows  
In pleasing reason urged, he took their thoughts  
As with a mild surprise; and they were good,  
Even though they knew not whence the influence came,  
Or once suspected that from Vernon's heart—  
That warm, o'er-circling heart—their impulse flowed."

Yet we must often be discouraged in view of the little that has been permanently effected by all our activities and by the thousand kindred efforts to improve mankind. It was at the same annual meeting where Mr. Wells's reassuring letter was read that Mr. Angell, of our Association, began his crusade against quack medicines and adulterations. He then said:—

This is a free country. In France I was assured that no medicine could be sold in Paris which had not been approved by a "board" composed of some of the best chemists of Paris. No physician could practise who had not been examined and approved by a "board" composed of some of the best physicians of Paris. Deadly poisons could only be sold by persons of good character, licensed by the police authorities to sell them. They were required to be kept under lock and key,

and the key kept in the personal possession of the person licensed to sell, and every sale was required to be registered, and the registry preserved twenty years for the inspection of the police. These and other regulations to prevent the improper sale of poisonous, dangerous, and adulterated articles, and to protect public health, were, as I was informed, most vigorously and efficiently enforced. Perhaps no stronger evidence of the comparative freedom in this country can be adduced than that millions of dollars' worth of quack medicines, which no respectable physician would prescribe, are widely sold; that most dangerous poisons can be bought at hundreds of places in any of our large cities, without restriction; and that it was shown to a committee of the Massachusetts legislature in February, 1878, that more than three hundred ignorant and uneducated persons were practising medicine at that time in the city of Boston; and that the signs of thirty-four of them were on the doors or walls of houses of ill-repute. But these are only a few of the evidences that may be easily adduced to show the perfect freedom which prevails in this country. Take the adulteration of foods, for instance. One of the most eminent chemists of Massachusetts tells me that almost every class of articles now sold in this country for food is more or less adulterated, and that many of these adulterations are poisonous.

Is there any remedy for these things? They are increasing every year. They poison and cheat the consumer; affect, and in many cases destroy, the health not only of the rich, but of the poor, whose health is their only capital. They are little or no profit to the seller, who in ninety-nine cases out of a hundred would prefer to sell honest goods, and enrich only those manufacturers and adulterators, some of whom, regardless of the laws of God and man, are little, if any, better than the pirates that plunder our ships on the ocean, or the highwaymen who rob and murder on the land. I say that laws should be enacted and enforced prohibiting the manufacture and sale of these poisonous and dangerous articles under severe penalties, and compelling the manufacturers and sellers of adulterated articles to tell buyers the precise character of the adulterations. I think the sale of deadly poisons should be restricted and carefully guarded here, as it is in other countries. I think that no medicine should be permitted to be sold unless approved by competent chemists, and that no criminal or ignorant person should be permitted to tamper with human life by pretending to be a physician.

In the twenty-six years since elapsed, as Dr. Harrington will show, much has been done to remedy this state of things; but

the ingenuity of the adulterators and deceivers has often kept pace with the efforts of law and gospel to thwart them. The press has become their great agency, and millions of dollars are yearly paid for advertisements and "inspired" editorials or correspondence, to keep up the sale of drugs and liquors of useless or hurtful tendency. And what is true in this respect is quite as true in others. What is called "business" is in too many cases fraud or gambling; and the whole country now resounds with the exposure of one gang after another of conspirators against old-fashioned finance and fair dealing.

What, then, is the moral to be drawn from our society's experience of forty years, and what is the present most pressing duty of our members in the ever-broadening field of Social Science?

It is plain to every observer that a great change has taken place since 1865 in the relative attitude of capital and labor—of wealth and poverty—toward each other and toward the community. It is not true that, while "the rich have been growing richer" (which nobody denies), "the poor have been growing poorer,"—at least absolutely. But, relatively and with respect to their liberty of action, the laborious many have grown poorer and less free to engage in paying industry than they were at the close of our Civil War. At the end of the eighteenth century, Burns, the peasant poet, complained in verse, sometimes pathetic, sometimes satiric, and sometimes indignant, of the dependence of the many in Scotland on the titled few.

"See yonder poor, o'erlabored wight,  
 So abject, mean and vile,  
 Who begs a brother of the earth  
 To give him leave to toil;  
 And see his lordly fellow-worm  
 The poor petition spurn,  
 Unmindful, though a weeping wife  
 And helpless children mourn.  
 If I'm designed yon lordling's slave,  
 By Nature's law designed,  
 Why was an independent wish  
 E'er planted in my mind?"

This condition of things was formerly almost unknown in America. In the North the scarcity of labor, in the South

the existence of slavery, made the free laborer little dependent on the caprice or the convenience of his employer. The distance between them in the social scale was less visible than now. The drift of population to great cities, and the constant improvements in machinery, superseding the skill of the laborious hand, had not produced their full effect, as we now see it. Great numbers of the industrious may be thrown out of employment, either by the ebb and undertow of prosperity in a panic, or by the turning aside of the stream of industry from a particular city, or in a special employment; or else by the determination of combined capital to destroy competition, or the equally censurable combination of laborers to force employers to their unjust terms. It is the age of strikes and lockouts, an age whose passing away in a better adjustment of the working point where labor and capital meet we must all desire, but which now seems likely to abide for years, with results of a deplorable kind, hard to foresee, but likely to have the worst results on individual prosperity, and perhaps on national security.

One reason for this unhappy situation is the enormous contrast, more noticeable than ever before (unless it were in the comparison of the wealthiest Roman senators with the mob of penniless citizens, fed on their bounty or hired to do their ambitious work), which we witness in the United States between the uncounted dollars of the magnates of monopoly and the lean purses of the workingmen in their mines or mills, their furnaces or railways. There have been centuries when the peaceful and laborious mass of men had most to fear from the commanders of great armies, marching across many lands to conquer and pillage and destroy. The Cæsars and Tamerlanes and Napoleons were the worst enemies of mankind then, while ravaging and bloody war was their delighted employment. What those chiefs were with their armies, these "captains of industry"—rather field marshals and major-generals of monopoly—are now, with their hundreds or thousands of millions, partly locked up in lines of railroad or acres of mills, or square miles of coal mines or copper mines, and partly left free for raids and duels of paper securities, which may destroy in a week the practical value of billions of fancied wealth, held in the tin boxes of individuals or in the

safes and deposit vaults of banks or trust companies. The movements of some of these magnates appear to the eye of envious poverty like the landing of a fleet's company of pirates on some rich and populous shore in the ages when piracy was as legal and as respectable as Standard Oil production or the cornering of beef and mutton is now. They may claim to be beneficent, and often they are so to individuals, as Robin Hood and Rob Roy were; but they are harmful to the community, from the grasping and insatiable selfishness which dictates the daily course of their operations. The protection of property is one of the best objects of governments and constitutions; but piratical and anti-social property, used as I have hinted, and as you constantly see or suspect, is not entitled to governmental protection. It is held and abused at its owners' personal risk, like the gains of the pirate and the gambler. Why should the people arm themselves with weapons, or with laws, to guard the strong box of the men who use their monetary power to raise the price of the necessities of daily life, to buy their way into public office, or to disturb the peace of nations? My objection to what has lately been called "tainted money" is not so much that it was tainted in the acquisition as that it is used for the injury of society. The taint of money can be removed by putting it to pure uses; but to give tithes of all you possess, so that you may use your other nine-tenths for my discomfort or social ruin, does not commend itself to me as a virtuous or a justifiable act. These overgrown riches—what I have long called "dropsical wealth"—do not indicate prosperity, but disease. They are the wens and tumors of what should be a wholesome economic condition. They evidence a sort of blood-poisoning in the body politic, which calls for drastic remedies. The historical remedy for it has commonly been the downfall, generally the suicide, of the patient. Nations that escape this fatal ending must have taken the patient in hand early, and adopted a strict regimen.

It is, therefore, the business of the Social Science Association, in this state of things, to seek out the causes, publish the facts, and announce the remedy. We may both exaggerate and understate these facts; but they will disclose their true character and furnish their own commentary as time goes on.

They are a part, not only of those inevitable changes which Mr. Wells foretold us in 1879, but of that ever-renewed stock of human depravity embodying itself in social conditions, which has kept mankind in agitation for thousands of years.

As to the remedies for the present or future evils and defects in our social relations, we must trust, in more cases than we are apt to think, to Time, that grand healer and destroyer of earthly things, who heals and restores by decay and replacement. There is, as the old physicians have told us, a *vis medicatrix*, a medicinal and restoring force in Nature herself; and this shows itself in the convalescence of States and communities, as in the human individual. Here, for example, is the sad question of despised and despising races at the South, over which our brethren of the former slave States are now exciting themselves so needlessly, as I think. Things are bad there, we say. So they are; but they have been greatly worse, and the lapse of forty years has in many ways improved them wonderfully. The change from brutal or even kindly slavery to emancipation, especially when that change has been wrought by invading war, cannot occur without much social upheaval and reconstruction, during which the short-sighted will become impatient, the timid discouraged, the enraged furious, the oppressed and the unfortunate beside themselves. But the progress of time has shown, and will yet further prove, that Justice and Mercy are the only safe foundation and binding forces in social and political architecture. They have had their operation disturbed by many cruel events, many sordid ambitions, and much ignorant mistake at the South, as at the North, since the emancipation of our black brothers, whom their former masters and forefathers are slow to regard as other than intelligent brutes or very backward and ill-disposed children. Yet those admired and admirable virtues, which their former masters say they displayed in slavery, still exist by nature and training in the race, are showing themselves here and there in different forms of manifestation, and will not disappear under injustice or unwise exaltation of mind and misdirection of will. The two races must be recognized as brethren, with different qualities and some difference in vices and follies, but essentially human, and therefore to be dealt with, on both sides, as human and capable of regenera-

tion. And the mission of Social Science is to promote the temporal regeneration of depraved societies, as the spiritual regeneration of evil and ignorant souls is wrought by divine grace.

#### THE DISCUSSION.

The President of the Association, John Graham Brooks, of Cambridge, who had introduced Mr. Sanborn as the first speaker at the morning session of Thursday, May 11, 1905, and who said he had recently returned from a visit of some days in Eastern Virginia, spoke strongly in support of the view expressed in the concluding page of the Historical Address. He instanced the progress made by the freedmen of Virginia in particular, and the support which they had given to sound morals by checking the sale of intoxicants where they were in the majority of voters; the increase in their ownership and skilled management of land, and in general of the excellent results following the schools at Hampton, Tuskegee, Calhoun, and elsewhere in the former slave States. They are supported, too, he said, by the more intelligent and philanthropic of the white inhabitants; and the relations between the two races are steadily growing better, in spite of manifestations to the contrary here and there.

Joining in the discussion, Mr. Sanborn said that he had taken part in a most interesting and instructive Conference at the Atlanta University May 21, 1904, in which the questions concerning negro crime were treated by negroes themselves (ministers, school-teachers, and others) with a directness and practical good sense not always seen by him in meetings of the Prison Association since 1870, when it was organized by members of the Social Science Association, as shown in the Address. The general results of this Conference have since appeared in a pamphlet of seventy-five pages, published by the university, and edited by one of its professors, W. E. B. Du Bois, a colored native of Massachusetts, who was educated at Harvard and in Germany. Some extracts from this work will have a bearing on one marked aspect of the race question much debated of late. The statistics came mostly from Georgia, which, however, is a typical Southern State, and what is true there is probably true in other regions not so carefully examined and reported. Crime among negroes in Georgia increased from 1879 to 1895, and has sensibly decreased in the last ten years, as education and property-holding have increased. Their assessed property in all Georgia in 1895 was less than \$13,000,000, in 1904 it was more than \$18,000,000, which represented only about half its market value. In all the centres of crime (the cities) the poor and ignorant whites were associated with the poor and ignorant blacks in vice and crime; but proportionately there is much more punished crime among the blacks. The assigned causes of this are various. The negro faults are given as:—

1. Abuse of their new freedom and tendency toward idleness and vagrancy.
2. Loose ideas of property, learned in slavery, petty pilfering, etc.



3. Unreliability, lying, and deception.
4. Exaggerated ideas of personal rights, irritability and suspicion.
5. Sexual looseness, weak family life, and poor training of children; lack of respect for parents.
6. Lack of proper self-respect; low or extravagant ideals.
7. Poverty, low wages, and lack of accumulated property.
8. Lack of thrift and prevalence of the gambling spirit.
9. Waywardness of the "second generation."
10. The use of liquor and drugs.

Professor Du Bois says:—

All these faults are real and important causes of negro crime. They are not racial traits, but due to evident historic causes. Slavery could not survive as an institution, and teach thrift; and its great evil in the United States was its low sexual morals. Emancipation meant for the negroes poverty and a great stress of life due to sudden change. These and other considerations explain negro crime. They do not excuse it, however, and a great burden of pressing reform from within lies upon the negro's shoulders. Especially is this true with regard to the atrocious crime of rape. This is not, to be sure, a crime peculiar to the negro race. An Englishman, Sidney Olivier, resident of Jamaica, tells us that in Jamaica justice has been dealt out impartially; and this has not resulted in "impudence" on the part of the blacks towards the whites. Indeed, when reasonably treated, they are remarkably courteous,—more so than the average Teuton. Attacks by black men on white women are absolutely unknown. A young white woman is safe anywhere, the only terror being from white sailors. There are offences against black women and children, but not whites. He infers from this that the danger of such attacks on white women, if it exists in the United States, is not really due to race. For his own part he is sure that the evil, where it exists, is augmented by the state of frenzy with which it is met.

But granting this and making allowance for all exaggeration in attributing this crime to negroes, there still remain enough well-authenticated cases of brutal assault on women by black men in America to make every negro bow his head in shame. Negroes must recognize their responsibility for their own worst classes, and never let resentment against slander allow them even to seem to palliate an awful deed. This crime must at all hazards stop. Lynching is awful, and injustice and caste are hard to bear; but, if they are to be successfully attacked, they must cease to have even this terrible justification.

The faults of the whites are:—

1. A double standard of justice in the courts, one for negroes and one for whites.
2. The election of judges for short terms, making them subservient to waves of public opinion in a white electorate.
3. The shirking of jury duty by the best class of whites, leaving it to the most ignorant and prejudiced.
4. Laws so drawn as to entangle the ignorant (as in the case of laws for labor contracts), and to leave wide discretion as to punishment in the hands of juries and petty officials.
5. Peonage and debt slavery as methods of securing cheap and steady labor.
6. The tendency to encourage ignorance and subserviency among negroes instead of intelligence, ambition, and independence.
7. The taking of all rights of political self-defence from the negro either by direct law or custom, or by the "white primary" system.

8. The punishment of crime as a means of public and private revenue rather than as a means of preventing the making of criminals.
9. The rendering of the chastity of negro women difficult of defence in law or custom against the aggressions of white men.
10. Enforcing a caste system in such a way as to humiliate negroes and kill their self-respect.

Mr. Sanborn thought that these conditions of society at the South really exist, and will only give way gradually to enlightenment and the not improbable introduction of a system of national education for whites and blacks, as intimated in the Address, and now favored by some of the numerous women's clubs at the South and the North.

[As we go to press, we receive from Atlanta, in the *Bulletin* for June, 1905, the resolutions of a more recent Atlanta Conference. These resolutions were written and signed by Walter F. Willcox, of Cornell University, special agent of the Twelfth United States Census, Mr. L. M. Hershaw of the United States Land Office, and Professor Du Bois, secretary of the Conference and editor of its publications. They are as follows:—

The Tenth Atlanta Conference for the study of the negro problems believes that the results of ten years' study of these social questions have justified the meetings and the methods of study employed.

We believe that there has grown in the last ten years a larger scientific spirit in dealing with the negro problems, and a demand for verifiable knowledge rather than mere opinion, as a basis for sound judgment and philanthropic effort.

The investigations of the last ten years seem on the whole to indicate:—

- (a) A progressive differentiation of the negro race into social and economic classes.
- (b) A slow recognition that this fact makes it more and more unjust to characterize the race as if it were a unit.
- (c) A large but slowly decreasing negro mortality.
- (d) An encouraging decrease of infant and child mortality.
- (e) An increase in the number of good homes.
- (f) An increase in the kind and number of efforts for social betterment among negroes.
- (g) An increase in the number of business enterprises and in economic co-operation.
- (h) A rapid decrease in illiteracy, especially in cities, and a large percentage of success among college-bred negroes.
- (i) A severe economic crisis among negro artisans.
- (j) An increase in the social and economic activities of the negro church.
- (k) A large increase of crime up till 1895 and a considerable decrease since that date.

We believe that future investigations ought to lay especial stress on the many unsettled questions as to the vitality of the negro, his economic efficiency, his moral habits, and his capacity for government, and on the means of improving all these. We recommend that these studies be carried on in ten-year cycles, and include statistical and historical research and investigation into African conditions.

Finally, we recommend the co-operation of all agencies now engaged in studying the negro problems, and an attempt to secure an endowment for the work of this Conference.]

Dismissing this special question, the meeting then listened to an interesting statement by Professor Raymond, of Washington and Princeton,

concerning the newly designated "George Washington University" taking the place and funds of the former Columbia University at Washington, D.C. A specialty of this institution is the giving of instruction by lectures to hundreds of young men, college graduates, and others, residing in the national capital as officials, and with time at their disposal for evening lectures, etc. In this way they may acquire at a small cost a considerable post-graduate instruction in history, philosophy, economics, and certain branches of science; the libraries and scientific collections at the seat of government being practically open to them. Dr. W. T. Harris, Commissioner of Education, and other well-known persons are among the lecturing force. The change of name was made in deference to the expressed wish of General Washington, as declared in his Will, for the education of his young countrymen at the national capital. The property left by him for that purpose had not become available; but the tendency now is strong to carry out his wishes in some way or other, and Professor Raymond thought this a very good way, so far as the facilities of the University would go.

## DECEASED OFFICERS OF THE ASSOCIATION.

### FRANCIS WAYLAND.

A TRIBUTE BY HIS LIFELONG FRIEND AND SUCCESSOR IN THE  
PRESIDENCY, FREDERICK JOHN KINGSBURY,  
OF WATERBURY, CONN.

Francis Wayland was born in Boston, Aug. 23, 1826. When he was six months old, his father was elected president of Brown University at Providence, R.I., and the family removed thither. The younger Wayland, who bore his father's name, graduated from Brown in 1846. Once during his college course, and under his father's advice, he, being then about eighteen, acted as principal for some time, probably one term, of the Pierce Academy at Middleboro, Mass.; and again, for some trouble with his eyes, he went on a cod-fishing voyage from Gloucester. The trip was a success, both as a fishing expedition and as an eye restorative, to which perhaps the crew, or some members of it, contributed their fair share by stealing all his cigars the first day out.

After graduating he read law for a while in the office of W. H. Potter, Esq., of Providence, and then entered the Harvard Law School. From there he went to the office of Chapman & Ashmun in Springfield, Mass. In 1850 he opened an office in Worcester. He was an intimate friend of Senator Hoar. They had been fellow-students at Cambridge, and there was but six days' difference in their ages, Hoar being that much younger. Their friendship continued through life.

In 1858 Wayland married Miss Martha Read, daughter of Ezra C. Read, Esq., of New Haven, Conn. Miss Read was an only child. Her father's health was not good, and at his request Wayland removed to New Haven, and made his residence with his wife's parents. In 1864 he became judge of probate for that district, and in 1869 was elected lieutenant governor of Connecticut, with Marshall Jewell as governor. In

1872 he became a professor in the Yale Law School, and henceforth directed his life to the development of this institution. As an indication of the success of his work, it may be mentioned that, when he became professor, the number of students was twenty-one and the number of instructors three. When he left it, the number of students was two hundred and forty-eight and the instructors thirty-six. Instead of a couple of moderate rooms in one of the county buildings, occupied by sufferance, a large and elegant block of buildings, with ample accommodations for the administrative force, lecture-rooms, and classrooms, and with library and hall for large gatherings, is now the home of the school. And this is almost entirely the result of Dean Wayland's tireless and unceasing labors.

In the earlier days of his connection with the school he took his share of the instruction; but, as the school increased, he gradually laid aside this part of the work until, for some years toward the end, his duties had been wholly administrative. This suited him best. He was a born organizer and administrator. He knew what men he could influence and how to do it. His acquaintance with men, and the best men in the country, was very extensive.

His interest in all matters relating to social reform was great and active. He was one of the officers of the great American Conference of Charities, which, taking birth in the American Social Science Association, soon outgrew its parent in importance, and attracts to its annual councils the interest of the philanthropists of the world. He was for years the presiding member of the Board of Directors of the Connecticut State Prison and a member of the Board of Pardons. He was president of the Society of Organized Charities in New Haven, which has been markedly successful in its work. He was president of the Connecticut General Hospital, of the American Baptist Union, of the Board of West Point Visitors for 1880. A member of the corporation of Brown University, he received from that institution and from Rochester University the degree of Doctor of Laws; and he was interested in many other philanthropic and charitable organizations.

Wayland became a member of the Social Science Association in 1878, soon after took charge of the Jurisprudence

Department, and remained its head until he was compelled to withdraw by illness in 1902. He was almost always the first of the chairmen of departments to report his programme complete. His wide acquaintance with prominent men throughout the country, and his convincing, not to say dominating, way of compelling compliance, with his requests, was doubtless the reason of this. Many of the most interesting and valuable contributions to the papers of the society were in his department. For three years he acted as President of the society, still retaining his chairmanship; and he was always most active in the society's interests, attending with great punctuality all the council meetings. For many years, when the meetings were at Saratoga, and the session began on Monday evening, he came up on the Saturday before, saw that the posters were ready and that some one was ready to put them up, that the hall was in order and a janitor properly instructed. He saw the editors of the newspapers, and arranged, or at least tried to arrange, to have the meetings noticed and the papers reported. At the meetings he was always ready with a word, when a word seemed to be needed, and with a flash of humor to enliven a period of dulness. His commanding presence, his genial smile, his ready humor, made him a central figure of our meetings. One of the contributors to our exercises told his people at home that he had found the *raison d'être* of the Social Science Association,—it was invented and kept up so that Wayland and X. could have a good time at Saratoga. That he had a good time there was obvious, and that he assisted at other people's good time was no less so. The conversations in the reading-room of the United States Hotel, participated in by Mr. Sanborn, Andrew D. White, President Adams, President Gilman, Eugene Schuyler, Judge Dillon, Edward Pierce, John G. Brooks, Rev. Dr. Wayland, Edward Atkinson, and many others whose names I cannot now recall, and prolonged until the elevator was about to make its last ascent, and sometimes, indeed, beyond that time, will be recalled by all the participants as among the most delightful, if not the most instructive, feature of the meetings of the Association.

His article in Volume VIII. of the *Atlantic*, entitled "A Field Night in the House of Commons," shows he might have

been a brilliant magazine writer; and his articles on Tramps and Out-of-door Life in the *Atlantic* and elsewhere, and on various social reform topics, notably Prisons and Prison Discipline, are marked by maturity of judgment and clearness of thought. He had travelled widely. Europe, Mexico, the Sandwich Islands, were among the places visited by himself and Mrs. Wayland; for, despite his vigorous looks, and perhaps one could add despite his general good health, he had from time to time various ailments and troubles which seemed to require change of climate. And Mrs. Wayland, who was not vigorous, was helped by travelling, so they went their foreign tours together. They spent several seasons in England and France, where they had many friends, and were always welcome.

A little leaflet describing a trial for murder in the Sandwich Islands will be remembered by those who read it as a graphic account of the very dignified and complete manner in which justice is administered at Honolulu.

His favorite exercise was horseback riding. It took a stout horse to carry him, but he had one. He was an early riser, and his habit was to spend an hour or more in the saddle before going to his office. There were few roads or paths in the vicinity of New Haven where he was not a familiar and welcome figure. He was fond of stopping to talk with the people he met on the road, and so picked up many quaint and amusing sayings. I remember his being particularly amused at a terse statement of the times of starting one of the trolley lines. It was "quarter after, half after, quarter of and at."

He was a charming correspondent. Sometimes he would write daily for two or three days, sometimes even twice a day, the second letter being a postscript to the first. He would seize his pen when an idea occurred to him, scratch it down, and send it off. Usually his letters were short, but not always. The style of his letters was much like that of Thackeray in his letters to the Baxter family, recently published, but on the whole more varied and sprightly. He did not illustrate his letters, as Thackeray did, but he had a way of putting a meaning into his words which was as graphic as illustration. If he wanted to make a word very emphatic,

he would write in large letters, stretching it across the whole page. If he despised a man,—and there were some such,—he would write his name in the smallest of letters without capitals. He was very fond of nonsense rhymes, and would frequently close a letter with one, prefacing it with, "How's this?" Sometimes, when he found a new one which particularly pleased him, he would send it in a letter with nothing else. He told me some years before his brother's death that he wrote to him every day. He was very fond of his brother. He had a great admiration for his intellect and his wit in addition to a warm personal and brotherly affection.

Wayland was a Baptist by inheritance and probably by conviction. He was a prominent man in that denomination, presiding at conventions and holding various offices and addressing religious gatherings and Sunday-schools. His house was frequented by many distinguished Baptist clergymen, among whom he had several intimate and valued friends, and he and his wife built and carried on a Baptist church in one of the environs of New Haven; but he was not narrow in his views, and all good men of every faith were his friends.

#### JAMES MUNSON BARNARD.

At the session of Saturday, May 13, Mr. F. B. Sanborn offered the following vote, and supported it by the subsequent remarks on the character of the late J. M. Barnard, of Boston, and his connection with the American Social Science Association:—

*Resolved*, That in the recent death of James Munson Barnard, at a ripe age, this Association laments the loss of one of its early and efficient members, who for several years after 1870 devoted himself to its social and economic interests, and to the extension of its work in education and art, with zeal and with important results. He seconded the activity of Professors Agassiz and Peirce, and for some time, during a vacancy in the office of secretary, maintained the office of the Association in Boston, and made it the headquarters of department committees, which promoted useful inquiries into matters of public health and special education; while



his presence and that of his circle of friends at our general meetings added much to their interest and success.

*Mr. President.*—It is peculiarly appropriate that this resolution should be offered at a session where educational matters are specially considered; for the attention of Mr. Barnard was first given to that side of our general work, although his interest was far from specialized in the many questions we had to discuss in the years from 1870 to 1876. He belonged to a family conspicuous in Boston for its philanthropic enthusiasm and its practical undertakings; and his alliance in marriage with a lady of noteworthy grace and social talent furnished that connection between abstruse discussion and the converse of society in drawing-rooms, which preceded the establishment, by Mrs. Dr. Talbot, of that club long existent here under the name of "The Round Table" for the more permanent refreshment of the philosophic mind of Boston.

A long period of invalidism withdrew Mr. Barnard from our meetings at a later date, but his interest continued in the topics we considered; and, when he could again give himself to the affairs of the public, he made himself specially useful by procuring and publishing, at his own expense, works on the important subject of nervous and mental diseases, so often debated in our general meetings. In all his activity at home or in Europe, where he travelled much and made many acquaintances, he manifested that public spirit and that amiable devotion to the cause of the unfortunate, which we have learned to consider a "Boston notion," so much has it characterized the citizens of this town for two centuries.

## I. DEPARTMENT OF JURISPRUDENCE.

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### I. ADDRESS ON MUNICIPAL OWNERSHIP.

BY R. G. MONROE, OF NEW YORK.

[Read Thursday evening, May 11.]

The advantages and disadvantages of municipal ownership as a general policy present perplexities and paradoxes for indefinite debate. The reasons advanced by opponents against the extension of municipal ownership are, as a rule, as unwarranted as the promises of those in favor are visionary and impossible. Certain cities have operated public utilities with success, while other cities have failed. Comparative statistics on the subject of municipal ownership and operation are difficult of clear analysis. "The future is always more logical than our imaginings," and the prophet who will take into account all the varying conditions of time and place, and foretell accurately the results to follow the application of municipal ownership and operation to a specified service in a particular place, will rank high in his profession.

The American public are fully impressed with the shortcomings of their municipal governments, but this realization is not likely to deter a community from extending the functions of its local government in order to protect itself from manifest imposition. New Yorkers may doubt the excellence of their municipal administration; but, unless there is a change in public sentiment, that city will soon install a municipal electric lighting plant for lighting its streets and public buildings.

When franchises are granted to an electric company to install its equipment or to a gas company to lay its mains in a public street, the structures implanted become a part of the realty itself, and the granting of such franchises is equivalent to a transfer of public land. Monopoly always attaches

to land, and the giving of a franchise to a public service corporation to operate in a city street naturally tends to monopoly,—the power to sell alone,—private control of a public market. The combination, by means of a holding company, of a number of independent corporations having separate franchises, is the next step to perfect the monopoly.

Every manufacturer is entitled to receive for his wares the cost of making and delivering commodities supplied, plus a profit upon his investment. When, however, an exorbitant price is fixed by a monopoly controlling a public utility or a necessity of life, the maintenance of such a price is equivalent to the imposition of an unjust tax upon the entire community. Dividends of a corporation are supposed to indicate the earnings. The rate of dividends may, however, be kept down, and exorbitant profits hidden by excessive issues of capital stock.

The sale of light throughout the city of New York is to-day in the hands of a private monopoly. As business grew and earnings increased, the corporations which have provided light for the city of New York have been recapitalized on their earning capacity. As consolidations were effected and a complete monopoly secured by one company, holding a controlling interest in the stock of all other companies operating in the same district, the monopoly itself was capitalized. The actual cash investment was lost sight of, and the strength of tremendous issues of stocks and bonds was based on the control of the market. Mr. Low, as mayor of the city of New York, denied the right of companies, so capitalized, to fix any price for their commodity that might be required to pay interest and dividends on whatever securities they saw fit to issue. The mayor said that, so far as the bills rendered the city were concerned, the lighting companies should receive what their services were reasonably worth,—that is, the cost of manufacture and delivery of the commodity supplied, plus a reasonable profit on the actual capital invested; and he further expressed the opinion that it might be advisable to install a municipal electric plant. Mr. Low also thought that, if there were any differences between the companies and the city as to what was a *reasonable* price, they could properly be settled by the courts, but his suggestion of a *quantum meruit* was termed a

crusade against the lighting companies. The companies refused to sue the city. On the other hand, they devoted their energies to defeating Mr. Low for re-election. But Mr. McClellan, the present mayor, has taken the same position held by his predecessor, and for upwards of two years the lighting bills of the city of New York have remained unpaid. Mayor McClellan has also had plans prepared and funds appropriated for the construction of a municipal plant. A settlement of the claims of the lighting companies was attempted by the commissioner in charge of lighting last October; but public opposition was so strong that the settlement agreed upon was never carried into effect, and the only result of the commissioner's negotiations with the monopoly was the appointment of an investigating committee by the legislature of the State. This committee found that the companies were grossly over-capitalized, and recommended that prices should be lowered and a permanent commission appointed, to regulate rates and exercise general supervision.

The Consolidated Gas Company is capitalized at eighty million dollars, and for some time has been paying dividends at the rate of 8 per cent. per annum. The investigating committee of the legislature reported that the plants operated by the Consolidated Gas Company were worth less than thirty millions. This committee further reported the Brooklyn Union Gas Company, the company controlling the supply of gas in the second largest borough of the city, to be also grossly over-capitalized.

A few years ago a number of electric companies were combined. The aggregate stock of the constituent companies amounted to about thirteen million dollars, and back of this was an equal amount of bonded indebtedness, so the total capitalization of the constituent companies before the consolidation was, in round numbers, twenty-six million dollars. Four million dollars in cash was added and the Edison Company was floated with forty-five millions of stock and forty millions of bonds.

If the city of New York goes ahead and builds its lighting plant, the fixed charges, the interest on the capital investment, will be comparatively small, because New York can borrow money at lower rates of interest than private bodies,

and there will be no incentive to over-capitalization. The maintenance and operation of the city plant will be less economical than the running expenses of a plant managed by a private company. But in this particular instance there is a wide margin for laxity in municipal management before such laxity balances the weight of over-capitalization carried by the private companies supplying electric light.

In taking the step now contemplated, New York has practical experience of its own to go upon, since for many years it has been engaged as a municipal corporation in distributing and selling water to its citizens. More than half a century ago New York, which for forty years had been supplied by a private company, started on an extensive scale to construct public water-works. This municipal enterprise was undertaken, not because the people had determined that municipal ownership was a wise policy, but because the works required were so gigantic, for those days, that no private body was willing to enter upon the undertaking. There has been much to criticise concerning their management, but, on the whole, the results have been satisfactory. In the year 1903 the water revenue amounted to nearly nine million dollars. That year the total outstanding water bonds and corporate stock issued for construction aggregated seventy-seven million dollars. The year's interest charges on this debt were about two millions six hundred thousand dollars. To maintain and operate the water system that year, the city also expended about two million six hundred thousand dollars. If these two sums are added together, and 1 per cent. on the outstanding water bonds and corporate stock of seventy-seven million dollars is set aside as a sinking fund, there still remains a net revenue to the city of three million dollars. Much more than seventy-seven millions has been expended on New York's water system, but year by year the debt has been gradually reduced, so that the public to-day have the benefit of what might be called an under-capitalization of their water supply. The interest payments upon a water system which is worth at least one hundred and twenty-five million dollars in the year 1903 were about two million six hundred thousand dollars. With a plant upon which less than thirty millions had been expended, the Consolidated Gas Company distributed the

same year 8 per cent. dividends on eighty millions of capital stock.

The proposition before New York is merely to light public property,—the streets and public buildings,—a very moderate step in municipal ownership. If successfully carried out, all must realize that the extension of the service to provide for private consumers will follow.

As a result of the legislative investigation, laws have recently been passed regulating the price of electricity, and an act was introduced and defeated reducing the price of gas to consumers from one dollar to eighty cents per thousand cubic feet. The legislative committee reported that gas at eighty cents would insure a reasonable profit on the amount of capital actually invested; but the gas companies contended that such a step would amount to confiscation of their property. It would certainly make less valuable their tremendous issues of watered stock. The only argument worthy of consideration advanced against the reduction was the oft-made statement that the innocent would suffer most from such an exercise of legislative power. A number of leading citizens forwarded a petition to the legislature urging that, if the price of gas were reduced, many poor people who held stock in gas companies would be deprived of their income. The plea was made on behalf of widows and orphans. On the other hand, the district attorney of New York, who lives upon the crowded East Side, thinking also of the poor and helpless, said that, if the price of gas could be reduced to eighty cents per thousand cubic feet, gas ranges would come into general use, that coal stoves could be dispensed with, and suffocating rooms made habitable in tenements. The price of gas will be adjusted on the lines indicated in the report of the investigating committee, or municipal ownership and operation will extend generally to lighting in New York City.

A municipality must respect the rights of private property. At the same time public property held by the municipality for the use of the entire community should, so far as possible, be kept free from exclusive occupancy by private bodies. The main function of city government is the control of city gates and highways, the charge, direction, conduct, and disposal of streets, terminals, and docks, and the equal administration of

these assets for the benefit of the community at large. These assets are the city's principal, the basis of its business life, an inheritance to be forever safeguarded, an inalienable birth-right, never to be absolutely transferred if the municipality is to remain a free city. The city may most properly claim the right to hold and operate its own estate. Municipal ownership is, therefore, not aggression. The position is one of defence against invasion rather than that of encroachment upon private domain.

Our traditions incline us to the belief that we are best governed when least governed. We are disinclined to increase the functions of government, extending opportunities of political corruption. We prefer to have private agencies render public service rather than to multiply the number of office-holders. We look with alarm upon increasing numbers of public employees. We anticipate the time when officials shall so increase in number as to be able to perpetuate themselves in office, become rulers, and be no longer servants, of the people. But facts do not warrant the conclusion that, if other and further business operations were added to municipal service, political corruption would run unchecked. Neither does the history of municipal politics in this country record that any set of officials have for a long period been able themselves to perpetuate their tenure of office. On the other hand, the records show that unworthy officials have been held in office from year to year by outside beneficiaries,—by men who were specially interested in public service apart from the government, by men who protested that they belonged to the business, and not to the political world.

Municipal government in this country is about as good as traction, gas, electric, and other public service corporations will permit it to be, and, as a rule, about as bad as these financial institutions find it in their interest to make it. As the protective tariff is the root of national corruption, so, in the acquisition and extension of their franchises and special privileges, public service corporations have been the debauchers of State legislators and local officials.

The public service corporation touches the life of the community in many points and comes close to the people. To the local government it stands closer than a brother: to the local

boss it is guide, counsellor, and friend. New York to-day is not weighing the merits of Fourteenth Street and Wall Street, but considering how to protect itself from a combination of the two.

Refuse, if you will, to adopt municipal ownership and operation as a fixed and universal policy, but at the same time keep it near as an ever-ready and available alternative. Do not throw away your most effective weapon of attack against the wrongs that are. Do not drop from your hand the one card your opponent knows he cannot take. Many of the ignorant, the dissatisfied, and the restless are shouting for municipal ownership, with no possible idea of the consequences; but their attitude is preferable to that of the man who, after partial view, would irrevocably reject municipal ownership, and thereby abandon the one strategic position from which the city may successfully cope with the public service corporations as they are intrenched to-day.



## 2. CRIMINAL COURTS IN GENERAL.

### SOME OBSERVATIONS BY A CITY MAGISTRATE.

BY HON. ALFRED E. OMMEN, OF NEW YORK CITY

[Read Thursday evening, May 11.]

The City Magistrate Court has jurisdiction to inquire into all crimes committed within the county of New York. This includes felonies, misdemeanors, and minor offences or violations of city ordinances. It has also jurisdiction in extradition proceedings. Its power is purely statutory. In felonies, if the magistrate is satisfied from the evidence presented to him that a crime has been committed, and there is probable cause to believe the defendant has committed it, he thereupon holds the defendant for the action of the grand jury, where, if an indictment is found, he must be tried by a petit jury. In misdemeanors the defendant, if he is held by the magistrate, is tried before the Court of Special Sessions, upon an information presented by the district attorney. There is no jury trial. In minor offences, such as intoxication, violations of many city ordinances, abandonment of wife or children by the husband or father, vagrancy, disorderly conduct tending to a breach of the peace, the magistrate has original jurisdiction, and hears and determines from the evidence whether the defendant is guilty or not guilty of the crime charged, and, if guilty, passes sentence. If a magistrate, upon inquiry into a felony or misdemeanor, should discharge the defendant, it does not act as a bar against another prosecution. The matter may be brought before another magistrate, and the defendant again arrested, or the district attorney may lay the matter before the grand jury, and, if that body deems the evidence sufficient, it can find an indictment. The grand jury can find an indictment without the case having ever been presented to a magistrate. There are many cases where a magistrate holds the defendant for the grand jury, but where the grand jury refuses to indict.

Take, for example, this actual case: A policeman in plain clothes, who was unknown to the habitués of the neighborhood, was solicited on the street by a colored woman for the purpose of prostitution. It was after midnight. They stopped and entered into a conversation, the officer leaning against the railing. The colored woman put her arms about the officer and began to hug him, and with her right hand took his pocket-book out of his left hip-pocket, and he then arrested her for larceny from the person. I knew him to be a reliable officer from previous cases before me, while the woman was a well-known prostitute, had been arrested and convicted many times as such. She had also been frequently arrested on charges of a similar nature. It appeared to me that a crime had been committed, and there was probable cause to believe the defendant guilty thereof. The grand jury refused to indict, because they would not accept the uncorroborated testimony of the officer.

Because of the peculiar nature of the crime, it is difficult to procure corroboration. Generally, in these cases, the victim says nothing, and enters it in his book of experiences as very well paid for. Sometimes he goes to the police station, makes a complaint, the woman is arrested, and sometimes she gives up the stolen property; but in most cases she does not. The man, in addition to the loss of his property, suffers unpleasant notoriety, and there is no punishment for the thief. It may be that the average grand jurymen, in refusing to find indictments in these cases, proceeds on the theory that it serves the victim right, and that he should know better; but the jurymen should remember that he is there to determine violations of the penal code, and not to pass upon principles of ethics. The social evil is perhaps necessary, else many women would not be safe on the streets; but it does appear to me that, because the social evil is necessary, men, under the circumstances, should not be freely robbed, and there be no redress under the laws.

There being no convictions and very few indictments in these cases, it has always proved a great source of "graft" for the police department. I simply mention this as an incident of crime in New York that goes on day after day without punishment. It is multiplying constantly. I think it is

a fair statement that the average prostitute who plies her trade on the street of a city will rob and steal if she has any opportunity. The temper of the people of most of the cities, regarding the social evil, is against segregation; but some day there will be a tremendous upheaval on this question, and perhaps then thoughtful men and women will devise some plan that will change the awfulness of the present situation. Our hearts go out in sympathy for these unfortunate women, and yet there is no reason why they should be allowed to fill tenement houses, crowd our streets, be constant examples for poor working-girls who are enticed by fine raiment, hours of leisure, etc., and to rob and steal freely without punishment, and be to unscrupulous policemen constant opportunities for plunder. It is a serious question, and requires a drastic remedy.

There are also cases that the magistrate discharges, where the grand jury, upon the request of the district attorney and the presentation of the evidence, finds an indictment. A recent statute in New York also provides that, if the magistrate discharges in a misdemeanor, the district attorney can file an information, and the defendant be brought before the Court of Special Sessions, and that court can proceed to try the case *de novo*. A magistrate has original jurisdiction in the matter of disorderly persons, some of whom are thus defined:—

The following are disorderly persons:—

Subd. 1. Persons who actually abandon their wives or children, without adequate support, or leave them in danger of becoming a burden upon the public, or who neglect to provide for them according to their means;

Subd. 2. Persons who threaten to run away, and leave their wives or children a burden upon the public.

There are at present in New York County seven City Magistrates' Courts. The average number of persons arraigned in each court is, approximately, from eighty to one hundred and twenty a day. There is not sufficient time, under the present conditions, for a magistrate to do full and substantial justice to all the parties concerned, where a complaint has been made under this section of the Code of Criminal Procedure. In my opinion (and I speak from experience), jurisdiction should be taken away from the magistrates' courts in these cases.

I have known cases of this kind to take an entire day for trial. The trial is not very different from that in the Supreme Court on the question of separation or divorce. The higher courts have decided that evidence of adultery on the part of the wife is entirely competent as a defence where the husband abandons the woman. You can imagine the amount of testimony that might be produced where that issue is raised. Often, while the magistrate is engaged in a trial of this kind, the courtroom is crowded with people. Prisoners, policemen, and witnesses are sometimes kept waiting for hours until such a case is disposed of. The magistrate must either sit far into the night, or hasten the trial by hurrying the attorneys and witnesses, or adjourn the case to some other day. The remedy I suggest is the establishment of abandonment courts. Complete records can then be kept, a probation officer attached to each court will become familiar with the cases, the matter will be handled systematically, and persons will have a better opportunity to be heard.

Sometimes complainants come into magistrates' courts many times. There is often a different magistrate, and one who is not familiar with the prior proceedings of the case. The matter is referred to a probation officer, who knows nothing about previous dispositions. There are often very nice points of law involved, and a judge who was engaged solely in trying these cases would make it his business to familiarize himself with all the details of the decisions, the wife would have a better opportunity to present her case, and the husband would be able to make a proper defence. In the hurry and bustle of the magistrates' courts, often, instead of proceeding in a proper way by taking the evidence with a stenographer, and making a final order fixing a bond, drawing full papers, the magistrate simply has a conversation with the parties, asks the woman how much she wants, asks the man how much he wants to give. The magistrate then says to the man, "You must pay her so many dollars a week"; and he promises to do so, and the parties are turned over to the probation officer. They go out of court, the man never pays, and in a month the wife returns, says nothing about the previous proceeding, obtains another warrant, and the same thing is gone over again before another magistrate. It is not because

the magistrates do not want to do full justice, but because the business is sometimes of such volume that it is absolutely impossible to give the closest and strictest attention to these cases. The matter is very important, since a great deal of the work of the charity organizations is concerned with abandoned wives and children.

Another class of cases that magistrates have to deal with, in which the conditions should be changed, is in the matter of disorderly conduct, tending to a breach of the peace. A man becomes intoxicated: he curses and swears in the public street, he fights with the policeman, and sometimes causes more trouble than if there was a fire in the neighborhood. Or he comes home drunk, immediately starts in to curse and swear at his wife and children, drives them out of the house, arouses all the occupants of the tenement in which he lives, and finally, after a great struggle, is arrested. It sometimes takes two or three policemen and the patrol wagon to get this man to the station house. The wife appears against him the next morning, and she brings the children. They look clean and neat and well taken care of. The wife tells her story of bruises and blows, profanity and wretched existence, sometimes covering many years. She tells you that she cannot stand it any longer, that the man does not work and that she by her daily labor has supported him and the children. Now that man ought to go to the workhouse from one to six months beyond any question, yet there is but one of three penalties open to the magistrate. He can fine the defendant ten dollars, he can send him to the workhouse for five days, or can put him under bonds to keep the peace for a period not exceeding six months. To fine him ten dollars or send him to the workhouse for five days is absurd. The magistrate generally puts him under bonds to keep the peace for six months. The chances are very favorable that the defendant is useful on election day. So within a few minutes there comes a man to bail him out, and he goes back that night, and does the same thing. Even though he does break the peace within six months, there does not seem to be any proper provisions of law to procure forfeiture of the bond. The whole thing is a farce.

It is one of the constant criticisms made against the magis-

trates' courts that people do not understand them, and claim that there is no justice. Of course, you cannot blame people who criticise under the foregoing circumstances. They leave court, having heard the judge say "six months," and all the way home they breathe freely and are happy because they think their thralldom is over for a while; and then they may find the man sitting on the stoop when they get back. The magistrate must accept bail, if it be proper bail, and the man must go free, even though it sounds tremendous to put him under bonds for six months.

Of course there are many times when the defendant cannot get bail, and must then serve the time in prison. I became so disgusted with this kind of proceeding that in cases where it appeared that bail would be immediately forthcoming I committed the man to the workhouse for five days, without bail. This, you can readily see, is an entirely inadequate sentence. The law ought to be amended so as to give the magistrate power to commit absolutely for any time up to six months. The case is not of sufficient gravity to be sent to the Special Sessions as a misdemeanor. The man is simply a nuisance who makes trouble for the whole neighborhood, and really all he does is to disturb the peace. If the magistrate had power to commit absolutely up to six months, and subsequently should find it was a case deserving of clemency, he could put the prisoner on probation, and, if he then behaves himself, the object will be gained, because he will contribute to the support of his wife and children. If he does not behave himself, the parole could be revoked and he sent back to jail to serve out his time. Under the present conditions of giving bonds to keep the peace, giving of the bond ends it. The probation system does not enter into such cases.

I wish now to speak generally of the conditions surrounding persons charged with crime in New York. If I were Commissioner of the Health Department, I would immediately order the closing of most of the station houses and some of the magistrates' courts. They are absolutely unsanitary, filthy, and in an awful condition,—a disgrace to the community. Say a person is arrested either for some trifling indiscretion or perhaps for no crime at all (for there are many such), or perhaps for a serious offence. He is taken to the station house,

—for example, the Nineteenth Precinct in West 30th Street, an old ramshackle building. In the large room, where the sergeant sits, the floor is filthy, the walls and ceilings are black with dirt from a former generation. There is a big stove, like that in a country store, around which sit policemen, professional bondsmen, messenger boys, every one except the prisoner and the officer making the arrest, smoking or chewing tobacco, and occasionally spitting on the stove. The air is strong and thick. The prisoner's pedigree is taken. He is then searched, and given a receipt for whatever property is taken from him. He is put in a cell, and, if your imagination is not similar to that of Edgar Allan Poe, you can hardly imagine such a place as it is. In this station house there are two tiers of cells, the lower one for men, the upper for women. The lower has no ventilation, and the upper gets its ventilation from the lower one. The lower is about ten feet below the level of the sidewalk. There is no heat in winter, except from one gas jet. The smell of the place, if the prisoner is sober, ought to make him sea-sick in twenty minutes. If he is drunk, he is better off. There is an old-fashioned toilet in every cell, no seat, no cover, with running water from a faucet three feet above the toilet. Most of the cells are as dark as pitch, so that you could not see your hand before your face.

Here the prisoner is put. Perhaps there are a great many arrests, for it is a busy precinct; and yet the cells do not number more than a dozen. Before long an old, besotted, vermin-covered man is put in the cell with the first man, perhaps two or three. The other day a man put in a cell with another proceeded to beat him until he was unconscious, and had to be taken to a hospital where he may die. The size of such cells is about five by eight feet. Imagine the horror of all this to a man of any decency or refinement who has never been arrested before. Pray believe me, when I tell you this is no exaggeration, but absolute truth.

Is it any wonder that here is fertile ground for the professional bail-giver to do a thriving business? If the prisoner stays in all night, the next morning he is taken to court and put in what is called the pen. There is one pen for male prisoners, and one for females. The pen for males is generally about twenty feet wide by twenty deep; for women prisoners,

about ten feet wide by ten deep. The seating capacity in the men's pen is sufficient for about ten, and about the same in the women's. There is room for about twenty-five men, under not very pleasant conditions, in the men's pen, and for twelve to fifteen in the women's pen. Frequently as many as seventy-five men are jammed into these pens, and thirty to forty women, packed in like sardines, stand up there for hours,—some old habitués covered with vermin, others with sores, others with bleeding heads. Some have been to the hospital or treated by the ambulance doctors; are bandaged with gauze, and have a strong smell of iodoform; others are just dirty and filthy; some swearing and cursing, some singing nasty songs, some crying and bewailing their fate,—the whole thing a veritable hell. Half these persons are immediately discharged when arraigned, but the effect of that night in the station house or that morning in the pen will last with many all their lives. Perhaps some get diseases, perhaps a blow to their moral nature, at any rate a feeling of horror for all time.

It seems to me that the great city of New York ought to provide sufficient room for people so unfortunate as to be arrested. There would be no difficulty in separating the clean from the unclean, in putting those who are beastly intoxicated and dirty in one part of the building, and those who are clean and never arrested before, who realize their situation, in another part of the building. It should not be necessary in station houses to put in cells all who are arrested. They could be in a large room, and, if any one of those present disturbs another, put him in a cell where he will not disturb anybody. There is no need to thrust three or four men into a five by eight cell, with a broken closet, some of the men drunk, to sit there for hours and hours in the dark.

In the Essex Market Court the pens are directly underneath the court-room, in (practically) an old damp cellar. A stove heats the place, a stairway leads directly into the court-room from the pen, which, together with the crowd in the court-room, furnishes an air better imagined than described. The place must be ventilated in the winter time, and that is no easy task. The magistrate debates with himself whether he will freeze or choke, and finally decides to alternate with a



little of each. Is there any wonder that policemen fall over, and are taken home to die of pneumonia in a few days? that clerks faint at their desk, and physicians have to be brought in to give stimulants, so the clerk can be sent home? that magistrates get typhoid fever, and are in bed for months? These are actual happenings. The authorities have provided, for \$300,000, a stable in the Street Cleaning Department for the proper keeping of horses, horses cost money, and so must be well taken care of; but human life is cheap.

While there is a rule in the Police Department allowing prisoners to get a meal to the amount of twenty-five cents at the expense of the city, if the prisoner has no money of his own, I find that in some of the station houses no such thing is done. In others this is looked after, and prisoners are well taken care of.

Saturdays and Sundays in the magistrates' courts are short days, when morning sessions only are held, and sometimes the court is closed by twelve o'clock. If a man is arrested after that time, he remains in the station house until eight the next morning, and stays in the court-house pen until his case is called, sometimes until twelve o'clock,—twenty-four hours during which he has received no food or sustenance. I went to one station house, and there found that only four meals had been brought to prisoners in seven years; to another where only remanded prisoners were fed; at a third, care was taken, and a number of prisoners had been fed, but the system is not uniform.

Should the prisoner be charged with a serious offence, and, in the opinion of the police, be a dangerous criminal (whether this opinion is well founded or not), he is, in most cases, taken from the station house to police headquarters, and there measured and photographed, and thence brought to the magistrates' court. His measurements and photographs are put in the Rogues' Gallery; but often men who have suffered in this manner are discharged when they come up for trial, their pictures remaining in the gallery. It seems to me (while it is a proper regulation of police power for the authorities to be constantly familiar with the criminal class) that the Rogues' Gallery ought to consist simply of persons who have been convicted of crime. Where the photograph is taken of a prisoner

who is subsequently discharged upon trial, the photograph and the records ought to be destroyed; because, if the man is innocent, there is no reason why his picture and measurements and pedigree and the crime with which he was charged should be open to the public gaze. The Rogues' Gallery is a public record. The man has committed no crime, for a jury of his peers have said so. In my opinion, it ought to be made a misdemeanor for the Police Department to photograph or measure a man merely *charged* with a crime. That ought to be done only after he is convicted, and should form part of the records in the Police Department of convicted criminals.

There are very few station houses in the city of New York that are sanitary. I have seen none that are comfortable. We hear constant criticism of the Police Department, but I assure you the average policeman in New York does not have a pleasant time of it. If you should go to some of the station houses, you would find large rooms where a great number of men sleep, some of the rooms never ventilated, most of them never heated, with no system of heating in the entire building except one large stove in the main room. Imagine an officer in the middle of winter, who has patrolled his beat for eight hours (and under the present system he must faithfully do it, for the telephone system by which he communicates with the station house every hour, and with the roundsman constantly watching to see that he is attending to duty, does not leave him much opportunity to shirk). This man comes to the station house. The temperature is zero in the room in which he goes to bed, with no warmth, no comfort, no conveniences. He has to buy the bed, he pays for washing his bed clothes and for the making of the bed. If any serious situation arises while he is asleep, he is immediately routed out to face, perhaps, some serious danger. Sometimes he has no chance to go to bed at all for sixteen or twenty-four hours. The place is not kept clean. The windows are generally covered with dirt, the floor is not swept. It is very hard to expect absolutely good police duty under these circumstances. He has no comfort when he is in the station house, and on duty he is hounded and bothered by very unpleasant conditions.

I do not believe it possible to get proper police duty by expecting a man to patrol a beat conscientiously and thor-

oughly for eight continuous hours with no time to get a bite to eat. If he should go into a restaurant for a cup of coffee during his tour, it is a reason for complaint against him. In the weather conditions that sometimes prevail, it is beyond endurance for a man to work for eight hours, constantly patrolling, with nothing to eat. I am safe in saying that, if it was not for the police pension fund, the best element of the police force would resign. This fund not only induces many to do their duty so as to avoid charges and dismissal, but it keeps many good officers in the department.

The probation system gives a salutary line of work in the magistrates' courts, for each magistrate has assigned to him a probation officer, who is usually a member of the Police Department. Then in the police courts there are women probation officers who now receive compensation from the city for their services. For years many of these women have worked without pay, and have done remarkable good. The probation system, to my mind, is the best thing in connection with our courts. The officers are faithful men who seek to help the unfortunates that come under their observation. They frequently go into the prisons, have talks with the men, and obtain information about them that the magistrate is unable to have time for while hearing the case, and which the prisoner very often, out of shame and fear, does not wish to tell in open court. Such information often changes the entire aspect of the case.

The probation women, with gentle voice and kindness of heart and the best of spirit, seek to alleviate the conditions and sufferings of those with whom they deal. There is no gush or cant about it. They are whole-souled, pure, and reasonably sympathetic. If a man or woman has been found guilty of some crime, and it appears to the magistrate that they should be given an opportunity to reform, the prisoner is given in charge to the probation officer. Sometimes several such opportunities are given; but, if a person after a fair chance does not change his ways, then he is committed to prison.

Take the case of a wayward boy. His mother has done all she could to bring him up properly. Her husband is dead. She works in the day-time to support him. He gets into bad company, smokes cigarettes, reads dime novels, spends a good

many nights in variety theatres, stands on the street corners, and becomes thoroughly "tough." His mother is in despair. She does not want to have him committed, but she feels that she must do something, and finally comes to a magistrate for advice. He sends his probation officer, has the boy brought before him, and talks to him, and finally puts him in the custody of that officer for six months or longer, warning the boy that, if he does not mend his ways, he will go to prison. The probation officer makes it his duty, week in and week out, at all hours of the day and night, to keep surveillance over that boy, and I have known a great many instances where boys who were starting wrong have been saved. The prayers of their mothers are nightly going to the skies for the saving work done by these officers in the courts, who changed the lives of such boys.

Or a girl has got in with bad associations, perhaps has been seduced. She is arrested, and brought into the court. The magistrate learns her story, talks with her, tries to show her that the life she is leading comes to no other result except the gutter, and then he puts her in the custody of one of these women who devote their lives to this work. She tries to get the girl employment, visits her, encourages her, and sometimes gets her to become a decent and respectable woman in the community. These are but a few simple instances, but there are many others that might be recited.

A conscientious magistrate in any city who faithfully performs his duty earns his salary. The work is hard and trying, and there are many difficulties. The court is open every day in the year. In New York 500,000 persons each year go in and out of these courts. Last year 124,000 persons were arrested. In one court there were 24,000 prisoners, almost 500 a week. Each one of these cases has to be heard. In each one the magistrate must sign his name from three to six times. The average magistrate, besides other duties, signs his name over 600 times a day. He must be quick in his judgment of a case: there is not sufficient time for the full detail of a trial. He must be a shrewd judge of human nature, and familiar with all the conditions of life in the city, the bad as well as the good. The work is enormous, and yet he must be very careful, for every act of his decides whether a person

shall be free or in prison. He is freely the subject of political influence. Men who would hesitate to go to judges of the higher courts think it a matter of course to "see the magistrate." They do not stop at speaking a kind word for a person charged with intoxication or with disorderly conduct, but they expect a magistrate to discharge burglars, thieves, and forgers against whom the evidence is complete. It is remarkable, the number of good people interested in keepers of disorderly houses. I have been often shocked at having men of position ask me to release women convicted of prostitution in tenement houses whom I had committed to prison.

For a magistrate to perform his duty conscientiously, and do justice without fear or favor, keep inviolate his personal and political friendships, is almost an impossible task. His heart must be in the work. He must extend a helping hand wherever he can. He is a court of equity, and disposes of many things without jurisdiction, but as a sort of arbitrator. To my mind, it is a most responsible position. It is the people's court. Thousands judge the character of the government from the treatment they receive in these courts: the magistrate is to them the test of justice in America. Oh, may we never get back to the old conditions, when these courts were used to oppress, when the only law was the man "with a pull," and whatever he ordered the judge decided!

Some of the attorneys who practise in these courts are good fellows, others not so good. If the magistrate is alert, he soon learns whom to trust and whom to distrust. The unfortunate who tumbles into crime deserves consideration. The man who deliberately sets up a business against the law—a policy shop, a gambling house, or a house of assignation—deserves no consideration. The war between the police and the law-breaker goes on constantly, and it is a bitter fight. Every means possible is used to thwart the police. Pool-rooms formerly had steel bars and many strong doors, so that between the time the police tried to enter and the time they finally did enter the place might change from a pool-room to a prayer-meeting. Now it is easier; the pool-room keeper may get an injunction from the Supreme Court restraining the police from interfering with his business, and keepers of houses of assignation also get injunctions. Of course, the

judges who grant them do not live in the neighborhood. I hardly think the police are interfering with people who live decent lives and obey the law.

Have I told you many things you never knew of? They are all true. If you have any doubt about the conditions of the station houses or the magistrates' courts in New York, get arrested some time, and see what will happen to you there.

[No discussion following these papers was reported. Several of the papers announced for this department failed to be sent in.]

## II. DEPARTMENT OF HEALTH.

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### I. THE INFLUENCE OF DAMPNESS OF SOIL AND CLIMATE ON THE DISEASES OF RES- PIRATION.

BY HENRY J. BARNES, M.D., OF TUFTS COLLEGE.

Forty-three years ago the late Dr. Henry I. Bowditch, of this city, in an address before the Massachusetts Medical Society, after a very laborious inquiry throughout the State, concluded "a residence on or near a damp soil, whether that dampness be inherent in the soil itself or caused by the percolation from adjacent ponds, rivers, meadows, marshes, or springy soil, is one of the primal causes of consumption in Massachusetts, probably in New England, and possibly in other portions of the globe." To this address and the report of Dr. Buchanan, of England, in 1867, on the "Distribution of Phthisis as affected by Dampness of Soil," reference is often made by writers of text-books now in use as authority for the opinion that dampness is not only a cause of this disease, but others of respiration. Since the recognition of the bacillus of tuberculosis by Koch in 1882, dampness can only be considered a predisposing or contributing cause by authors quoting from the works of Drs. Bowditch and Buchanan. Little, if any, effort is made to show why this condition of soil should cause disease, although Dr. Billings writes, "It would be easy to construct a plausible theory in connection with the supposed cause of phthisis by a bacillus."

If the bacillus of tuberculosis or any of the known pathogenic organisms causing disease of the respiratory tract can preserve their virility in a damp soil, of which there is much doubt, chiefly because of the bactericidal influence of sunlight, the condition of dampness must be unfavorable for their transportation to the respiratory tract. Their presence in indoor air has been abundantly demonstrated. They may be wafted on particles of dust; but how they would be

detached from damp surfaces is difficult to understand, unless released and transported by an intermediary host, of which we have no evidence. So long, then, as they remain in or on a damp soil, they can have no influence on the organs of respiration.

If damp soil, then, is a factor in promoting diseases of respiration, it must be through the changes it produces in the air in the vicinity of such a soil. In warm or hot weather it may produce a fog, raising the relative humidity several per cent., either by evaporation, a lower temperature, or both. The presence of fogs over low, wet lands, and their absence from adjacent elevated lands, is very frequently observed, and employed by many persons as the only means of measuring the dampness or dryness of the air. Very erroneous conclusions result from this method of measuring moisture; for, with a high relative humidity over the high lands, a fraction of one degree lower temperature over the low lands is sufficient to cause a fog. For example, air at 70 degrees temperature, 98 relative humidity without fog, will be 100 R. H., or saturated, if the temperature is lowered half of one degree, and a fog may result. As the difference is usually much more than this, the appearance of fogs will be of corresponding frequency over low lands, without a material increase of relative humidity. Fogs are probably more frequent in Boston than at Sharon or Rutland, yet the mean relative humidity of the three places is not materially different, the mean annual of each being between 70 and 74 per cent.

In winter, when the temperature is at or below freezing, from the frozen ground or the snow and ice there is so slight an evaporation as to cause no appreciable increase in the relative humidity; and fogs are usually occasioned by warm currents of air passing over cold areas of surface and producing the same results over high and low lands,—namely, a saturated atmosphere. The presence of fogs, then, while they are indicative of dampness, their absence is of little or no value in estimating the dryness of the air. Only by measuring the relative humidity can we ascertain the actual condition.

The rainfall is often mentioned as indicative of a damp climate. This is a worthless guide in the temperate zone,



where rainfall occurs at no particular periods of time. The relative humidity may be comparatively low for a period of excessive rainfall or high for a period of little rain, as exhibited in the Sharon report for April, 1904, when the precipitation amounted to 8.62 inches and the mean relative humidity for the month was 68; while that for September, 1903, was 1.27 inches of rain, with a monthly mean humidity of 78, thus showing a month with nearly seven times the rainfall of another, having a relative humidity of ten per cent. less. While it appears, that, in the restrictive meaning, local conditions influence but slightly the relative amount of moisture in the air, and only in warm weather; mountain ranges, ocean, ocean currents, and desert regions do occasion great variations.

The eastern coast of Great Britain has an annual mean relative humidity of 85 per cent., caused by the Gulf Stream and elevated lands, and is considered a damp climate. In New Brunswick, at the mouth of the St. Lawrence, 85 is the mean. Areas east of the coast range on the Pacific are examples of very low percentages of moisture, of which Fort Yuma, Ariz., is one, with an annual mean of 35 per cent.

Denver, Col., having a mean of 50 per cent., has what is considered a dry climate; and, except for peculiar topographic locations, other parts of the United States have what is called a medium climate as regards moisture. Boston, Albany, Buffalo, Chicago, St. Paul, Washington, and New Orleans have an annual mean between 70 and 75 per cent.

For purposes of classification we may say that all climates above 80 per cent relative humidity are damp; about 70, medium; about 50, dry; below 45, arid. What effect, if any, this great variation has on death-rates from tuberculosis and other diseases of respiration is impossible to ascertain, because density of population, occupation, social conditions, etc., are all admitted to be very influential factors, of which we have insufficient record. We do know, however, that no condition of climate prevents them.

To a damp and cold climate is often attributed the prevalence of diseases of respiration in the winter, and many mortality tables are cited showing the death-rate from these diseases is enormously increased during the winter months. This

falls far short of proving weather, or dampness, is the cause. In the winter of 1903 and 1904 New York City exhibited an unusually high death-rate from pneumonia, Boston a comparatively low rate. The meteorological conditions were practically alike, as reported by the weather bureau. We have enough cases of this disease in hot climates and in hot weather to prove a low temperature and a high relative humidity are unnecessary to cause this disease. Its prevalence in winter is better accounted for by the more intimate relations for the purposes of shelter, for this is often an infectious disease.

During the Civil War, in 1864, six thousand colored troops were quartered in barracks at Fort Benton, Mo. From January to May seven hundred cases of pneumonia occurred among these troops, and the epidemic was stopped only by breaking up the barracks. The surgeons in charge reported, "Men occupying the same bunks with those affected were very much more liable to be attacked than those more remote." In 1874 seventy-five cases occurred among seven hundred and thirty-five inmates of a prison at Frankfort, Ky. Netter reports thirty cases among persons sleeping in the same bed with the sick. Much more evidence could be produced showing this to be a transmissible disease, and it should therefore be reported to the health authorities as such. Dr. Loomis writes Pepper (vol. ii. p. 315): "The more dense the population, the greater the pneumonia rate, which rainy seasons or moist districts do not influence. Wind, weather, seasons, or race, have but a slight influence. Resistance of the individual is the most important factor."

Regarding epidemic influenza, this prevails irrespective of soil, season, or climate. Finkler says, "We cannot at the present time predict the appearance of this disease from any existing atmospheric conditions." Pepper, "There is no known condition of climate, soil, elevation, or season which affects it." Osler, "Outbreaks of this disease are independent of all seasonable or meteorologic conditions." C. J. Wilson: "The condition of the air as regards moisture or dryness does not influence the spread of this disease. It has occurred at sea, on the low seacoast, and in the driest climates,—for example, Upper Egypt,—and has no known connection with any known atmospheric condition."

## TUBERCULOSIS.

That this is an infectious disease need only to be stated. If the tubercle bacilli are cast upon the water or damp soils, they are likely to remain there, often exposed to the germicidal influence of the sun's rays. We have, therefore, to consider what effect, if any, the dampness has on the resisting powers of the individual. The fact that the disease occurs among people living under all conditions of dampness or dryness of soil is evidence that neither of these conditions prevents the disease. The dryness of the soil and air of Denver, Col., has long been rightfully esteemed favorable for recovery from tuberculosis; yet from 1893 to 1899 there was an increase from 11.25 per cent. to 19.7 per cent. of deaths of natives to foreign population; and, while we must admit the force of Dr. Bonney's statement, that "these figures are vitiated by an uncertain number of foreigners leaving just before death, who die at home," the fact remains that the disease can be contracted in Denver.

## "COLDS."

That colds can run through schools and families has been a common experience for generations. The infectious nature of this disease is suggested where Boswell relates a conversation with Dr. Johnson, after his return from St. Kilder, more than a hundred years ago. "The inhabitants all complain," says Johnson, "that, after the arrival of a ship at their port, all set to coughing and sneezing."

In New Brunswick, five years ago, during the month of August, in a hotel population of about three hundred I saw sixty-one cases of this disease. An individual case came to the cottage of his mother. In three days his sister and mother were attacked. They visited a family in the hotel in which three cases occurred. I was able to trace the disease to a third family with whom the second family was intimate. About the middle of the month, on the second and third days, after a drive whist party, there were fifteen new cases. Beyond this I could not trace the infection. The disease was mild, permitting most of the patients to be up and about with what

they called a "head cold." There were, however, a number of well-developed cases of bronchitis.

Dampness of soil or air could not have been a factor in causing this epidemic. The month was unusually dry, as indicated by the absence of dew and the yellow grass fields, and without great variation of temperature.

Thus far I have only attempted to show the natural conditions of soil or climate are not necessarily factors in the causation of the diseases of respiration, and that there are other influences of great importance. Unfortunately, but few of our mortuary tables furnish details necessary to prove a higher or lower rate resulting from conditions of soil or air as regards moisture or temperature. We have, however, a number of well-known facts relative to the subject.

Dr. William Ogle has shown that fishermen, who are from the nature of their occupation exposed to the greatest amount of moisture in the air and surroundings, have the lowest death-rate from respiratory diseases, and occupations necessitating an indoor life the highest, where presumably they are more protected from dampness and the vicissitudes of the weather. The late Dr. Abbott, of our State Board of Health, conclusively demonstrated tuberculosis to be essentially an indoor disease; and the outdoor treatment in our so-called "damp and cold" climate in winter, at Sharon and Rutland, presents results indicating a fair proportion of recoveries. The expression "damp and cold," however, has little, if any, significance when used without the thermometer and psychrometer; for in all temperatures below freezing the air has the feeling of dryness, even though the measurement may indicate saturation or 100 per cent. moisture.

Has the arid climate of desert regions, with a mean relative humidity below 45 per cent., any influence on the diseases of respiration? They are not sufficiently inhabited or recorded for us to be able to answer. But this we do know, that under the influence of the arid atmosphere of our houses in winter we have the most sickness and mortality from lung diseases. I have observed in winter the relative humidity in a hospital ward in Boston to go as low as 15 per cent., which is 5 per cent. less than the lowest requirement for kiln-drying lumber. Dr. Cowles's, Mr. De C. Ward's, and my own obser-

vations cover a period of time sufficient for the statement that we live in a mean relative humidity of about 30 per cent., when artificial heat is employed. Fort Yuma, Ariz., has an annual mean of 35, and the inhabited parts of Sahara 40 to 50 per cent.

We also know drying does not impair the vitality of the tubercle bacillus, but does render it more buoyant in the atmosphere. We know that all the diseases of respiration chiefly prevail in cold weather, attacking those of indoor life and occupation, where the air is excessively dry, and are not nearly so numerous in the summer, when the air of our houses is relatively much damper than outside air. I have observed for the entire month of August 100 relative humidity in my office; and damp walls and the swelling of furnishings are well-nigh universal in our houses during warm weather, as a result of a lower temperature and higher relative humidity than that outside. On the other hand, when we have the greatest number of cases, the artificial heat employed lowers the relative humidity to such an extent no arid inhabited region in the world furnishes a parallel. Our furnishings shrink after being kiln-dried, and windows and doors do not fill the spaces to which they are fitted. Yet none of the pathogenic organisms causing diseases of respiration appear to be injuriously affected, but rather appear to be more virulent. Possibly this may be due to their greater buoyancy when dried. Can this arid air contribute towards making humanity less resistant to these diseases? When we remember the anatomical structure and the physiological action of the ciliary lining of the respiratory tract, over which a thin watery fluid is constantly flowing upwards and outwards in health, it would seem the respiration of air, so deficient in moisture, would, by evaporation, thicken, if not exhaust, this fluid, and thus impair the motions of the cilia and the flow of fluid, which evidently is designed to expel foreign matter, including pathogenic bacteria. The frequency with which these organisms are found in the upper air passages, without causing sickness, suggests the probability of unfavorable soil, and inability to reach the deeper air passages under the circumstances. Colds may be contracted in warm weather, but they usually end quickly, and only involve the upper air passages. In

winter the disease, beginning with exactly the same symptoms, more often extends gradually down the trachea, and finally to the bronchi of the lungs; and we call it bronchitis.

The conclusions to be drawn from the evidence presented is that all the diseases of respiration are common enough, regardless of dry or damp soils, in hot or cold, moist or dry, climates, to at least raise a doubt if these conditions have any influence whatsoever as a cause of the diseases of respiration; but that an excessively dry air, which nature nowhere provides, but which we create in winter by raising the temperature of air, holding at most a very small volume of watery vapor, and thus lowering the relative humidity to an extent sufficient to impair the resisting powers of the mucous membrane lining the respiratory tract, may be a factor in the increased prevalence of respiratory diseases in cold weather.

## 2. INDIVIDUAL FACTORS IN HYGIENE.

BY R. C. CABOT, M.D., 190 MARLBORO STREET, BOSTON, AND  
P. K. BROWN, M.D., SAN FRANCISCO, CAL.

[Read Friday morning, May 12.]

In the prevention and the cure of the vast majority of diseases known to us to-day, our main stay is general hygiene, which may be defined as whatever brings us into the best condition to resist disease.

But what will accomplish this end? What is positively known to-day about personal hygiene? We know a good deal more than we did about public hygiene, about water supplies, food adulteration, and the like; but, in regard to personal hygiene, diet, exercise, rest, bathing, we are now in one of those periods which occur not infrequently in any growing science,—a period when we know considerably less than we used to, or, rather, than we used to think we knew. Our venerated hygienic dogmas are being analyzed back into their constituent prejudices and superstitions, and no new ones have yet gained currency or confidence.

Is hygiene a set of rules valid for all, a set of averages obtained by the erasures of individual differences? We think it can be shown that the only rules valid for all are so vague as to be almost useless. We can say that a man must eat something and sleep sometimes; but, if we try to advance beyond these ludicrously vague generalities, we find ourselves at once on very uncertain ground.

If, on the other hand, we try to state the matter in terms of *averages*, and to describe the actual habits of men by statistical methods, we are not likely to get any useful guidance for any particular individual. It is like averaging on a map the routes of all the transcontinental roads. The resulting line would run across the country and at about its middle, but would not afford you or me any assistance in finding the best route for our own travels, whatever they may be.

## I.

Suppose you went to a general information office, such as Raymond's or Cook's, and asked, "What's the best railroad to travel on?" the clerk would very naturally reply, "That depends on where you want to go." The *individual desire* is the first and decisive factor, and to attempt to ignore it is folly. But the attempt to answer the question, "What railroad should I travel on?" without knowing where the questioner wants to get to, is no more absurd than the attempt to tell a man the best rules of hygiene without first knowing what kind of life he wants to lead. "Good-morning, colonel," said a stranger on a visit South: "how do you feel this morning?" "How do I feel, sir?" said the colonel. "I feel like the devil, sir, as every gentleman should, sir, in the morning."

Note the individual factor in the colonel's hygiene, the individual modification imposed on his rules of living by his general ideal of the position of a gentleman. This is the first of the individual factors in hygiene to which we wish to direct attention,—the factor introduced by the man's aim in life, the destination at which he wishes to arrive. Knowing that a man wants to go to San Francisco as cheaply as he can, you may be in a position to offer him some advice as to the best means of fulfilling his desire: otherwise it would be absurd to try to advise him. "If you want to get the most work out of yourself, and keep yourself always at your best, I should advise you not to drink and smoke." "Oh, but I don't care at all to get the most work I can out of myself," your patient may (and not infrequently does) reply. "I want to have more variety, more fun, in my life than a mere working machine."

Hygiene is a branch of ethics, and, like ethics, finds the ultimate warrant for its "*Thou shalt*" and "*Thou shalt not*" in the ideals of the individual.

## II.

A second set of individual factors becomes obvious as soon as we begin seriously to consider the differences of race, climate, occupation, age, and sex. This is more familiar ground. We are pretty well accustomed in our practical dealings with



patients to modify or restate the traditional canons of hygiene in accordance with the differences just mentioned. We know in a general way that the hygiene of men differs from that of women, and we have begun to recognize a hygiene for children that takes account of other differences besides those of weight. We recognize (though our school boards do not) that young children ought to be allowed a very large amount of running about, climbing, yelling, and other exercises of large groups of muscles rather than the minutely focussed activities that "wag the tongue and wag the pen," as Stanley Hall says. Yet we recognize that the same amount of violent exercise would probably be bad for an adult, and that, at any rate, no adult except a maniac would attempt it.

Further study will, we believe, carry these distinctions much further. We shall grow to be less local, less parochial in our views of hygiene. We shall probably recognize a hygiene for Caucasians, a hygiene for Orientals, a hygiene for brain-workers, a hygiene for adolescence, and one for those who have reached Osler's age of chloroform; very possibly, also, one for San Franciscans and one for New Yorkers. All this is more or less a matter of guess-work and prophecy, but already our knowledge has gone far enough in this direction to make some of the text-books of hygiene smack ludicrously of the town that produced them. The German text-books are unmistakably German in their point of view, and yet undertake to dogmatize for us all. No doubt ours sound as strange to them.

We shall allude but for a moment to the extraordinary disregard of individual differences that is apt to afflict those physicians who are themselves strongly individual in their hygienic habits. The physician who finds that coffee disagrees with him is apt to preach a crusade against all users of coffee, and proclaim it rank poison. The doctor who happens to need no exercise is tempted to assume that all exercise is a fad, and so on.

But we pass at once to another class of differences, dependent not, like the first type, on one conscious ideal of life, nor, like the second, on environment and circumstances, but on certain characteristics which seem to be *inherited*, yet which we are often very backward in discovering. We shall try to

exemplify some of these differences in each of the following functions:—

(1) Sleep; (2) Waking up; (3) Work; (4) Rest; (5). Exercise; (6) Food; (7) Tests of Health.

(1) *Sleep*.—(a) The average Caucasian has come to take his sleep in one dose and his food in several; but the American Indian often takes his sleep in divided doses, and sometimes takes his food in one. Here is an interesting individual difference. How common each of the two methods is seems to us a question on which considerable statistical study might profitably be spent. Some persons habitually wake up in the night, get up, do a bit of work, and then go to bed again. The mid-day siesta, so commonly taken in the tropics, is another example of divided doses of sleep. (b) The total dose of sleep necessary is a matter on which there is, so far as we are aware, very little statistical data. It is a common belief that women need more sleep than men, but it is hard to find a statistical backing for that statement. (c) Then in regard to preparations necessary for good sleep. Certain persons, if they are to sleep well, must arrange that the vigor of their activities shall taper off, and not rise in a *crescendo* as the evening goes on. Others do not find this so. There are many other interesting questions about sleep to which we have no time to allude here.

(2) *Waking up*.—One of the most interesting individual differences concerns the simultaneity or lack of simultaneity with which the different organs wake up. In some persons the brain seems to wake before the stomach, in others the stomach gets ahead of the brain, while some persons wake all at once. Some have to wake their systems up by using dumb bells, some by a cold bath, some by drinking coffee, some by work. Habit, of course, plays a large part. One who is used to breakfast at eight, and is forced to breakfast at three or four, may find that his stomach is not awake, and, being unready for its work, does it so badly that indigestion results. It seems likely that the rise of the "no breakfast" idea is due to the fact that some persons' stomachs (or general metabolic processes) cannot be awakened except by work. It is probably a matter of individuality, but we need a great deal more statistical evidence on this point.

People differ enormously in regard to what time of day they become so thoroughly wide awake that they can do their hardest work. Whether a brain-worker should do his hardest in the morning or later in the day is a matter which we hope to investigate statistically and in comparison with tasks of other kinds. It is said that marksmen shoot more accurately after luncheon than before.

(3) *Work*.—We think it is not sufficiently realized that work is a great, if not the greatest, factor in keeping us well. Physicians sometimes tell a man to give up work without realizing that they are compelling almost as serious a change as if they told him to give up eating. To take away a man's work is almost as serious a thing as to take away his food. We may feed a man by some other channel. So may we send him on a vacation, and try in this way to take the place of the nutrition that comes to him by work; but often good working of the organism is not secured in this way. It may be as hard to fit him to loafing (and as unnatural) as to rectal feeding. Again and again my own convalescent patients say, "I don't feel fit to work," and the answer is: "You will never be fit to work if you wait till you feel like it. The only thing that will make you feel better is the tonic and stimulus of getting to work." This is true not merely in neurasthenic cases. Balfour, the recent Premier of England, was miserable physically until he was induced by a wise physician to take up his present strenuous work.

(4) *Rest*.—Of the many problems about rest and recreation we shall cite but one. Persons may be divided into two classes, expressing individual differences according as they can rest by change of work, going from one work to another, or cannot. We know of nothing more important than for a man to find out early in life to which of these classes he belongs.

(5) *Exercise*.—Almost all doctors prescribe exercise. How many healthy doctors ever take any? Did it ever occur to you to ask whether there is any word in any language other than English which really corresponds to "exercise" in our sense? We can think of none in French, German, or Italian; and we are interested to know whether exercise, like athletics, is an Anglo-Saxon peculiarity. Other languages

have words that seem to translate it after a fashion, but not very precisely. If this is true, it is a very important thing to take account of.

*Health and Muscle.*—Some of the older men here may remember Blaikie's book, "How to get Strong," a book much in vogue fifteen years ago. It dealt with the question of exercise, and dealt with it on the assumption that to "get strong" is the same thing as to develop muscle. In fact, the book should have been entitled "How to develop Muscle." But we know that a man may develop muscle to any extent, and yet have no health. We know a man in college who developed by gymnasium work the most extraordinary set of muscles that we have ever seen, except on Sandow, yet he was never well or healthy, and never could put through any piece of prolonged hard work, mental or physical.

Now, as soon as we realize that to be strong and healthy is not the same thing as to increase the size of our muscles, the individual element in exercise becomes more and more prominent. If one could prescribe gymnasium exercise to increase muscle and thereby health, the individual element could be largely disregarded; but, when you recognize that the muscular individual is not necessarily healthy, the individual element in the choice of exercise comes to the fore. Some persons enjoy pulling chest weights, and are benefited by it, perhaps because they enjoy it; but the vast majority of people would rather be put to penal servitude than pull chest weights, and in such persons it certainly may do harm. We need to take the crude product we call "exercise," and analyze out of it what is of value. We believe that the more fully it is analyzed, the more the individual factor will be recognized. Is it deep breathing, vigorous heart action, profuse perspiration, that is that invaluable element? Is it relaxation, enjoyment, change of mental attitude? Is it the amount of fresh air breathed in? One thing we do know to be true in most persons; viz., that in valuable exercise there is *no self-reference*. Attention is turned away from self. In exercise which you enjoy that is the case. But many exercises (as, for example, the Swedish system or any other system of gymnastics, calisthenics, etc., that is done *for exercise*, and not for fun) direct the person's attention to himself, and thus

in a very large proportion of cases neutralize any possible good to be accomplished through them.

(6) *Food*.—First, in regard to the amount. The vast majority of us have the idea that, when the patient is run down, we should feed him up. But the recent investigations of Professor Chittenden should certainly make us more doubtful of the value of feeding persons up. Professor Chittenden has shown that Voit's diet tables can no longer be regarded as standard for all persons. Some persons on a diet containing a very much smaller amount of proteid and of a lower calory value do not only as well, but apparently much better. We are not arguing that the diet used in Professor Chittenden's experiments is right for all of us, but merely that he has directed attention to individual differences. Apparently, certain persons are better off on what is practically a vegetarian diet. Let those who find it to be good for them adopt it, but they need not mount to the house-top and proclaim that every one must follow that diet, or be damned.

The brilliant work of the Russian physiologist, Pawlow, emphasizes again in another way the same point. He shows that gastric juice will flow freely if the animal likes the food presented to it, and will not flow if it does not like it.

In regard to the use of water many rules seem to be constructed in the following way: A person comes to us, in ill-health. We find that he drinks very little water. We prescribe water. He gets better, and we then formulate the rule that the ordinary man should drink more water. But, if we investigate not the hygienic failures who come to doctors, but the people who are strongest and healthiest, we should find that many of them drink very little water or liquid of any other kind whatever,—very much less than we, as physicians, are in the habit of saying that people must drink to be well. We believe that this is an individual matter, and that no invariable rule can be laid down.

(7) *Tests of Health*.—We are very much in need of tests of the degree of health,—tests that will show a "healthy" person how far from the danger point he is. In such cases we think that individual differences will be found to count a great deal. Some persons are to be considered well if they eat well and sleep well and feel well. For others these tests

are not sufficient. We have noticed in quite a number of persons that information of some value can be obtained by noting the degree of infection of their hang-nails. Everybody has some hang-nails; but, when the individual is below par, they begin to get inflamed. Another possible test is the condition of the reflexes, some of the minor reflexes especially. In the last report of Phipp's Institute for Tuberculosis there is an account of the reflexes of tuberculous patients, especially the hypothernar reflexes. We have watched in ourselves for some time the condition of this reflex as compared with our own general condition, and are beginning to watch it in some other persons, too. Perhaps certain individuals can measure their condition by noting the condition of their reflexes. One of us finds that, when he loses sleep or is overworked, this hypothernar reflex comes out very prominently. Scratching the ulnar side of the forearm with a pencil makes the abductor minimi digiti stand out. When he is in first-rate condition, the reflex cannot be elicited.

We hope that we have done enough to remind you of a large body of facts which indeed are common knowledge (or common ignorance), but which are not always in that foreground of our minds whence action issues. These facts exemplify the individual variations dependent on:—

- (a) Our chosen plan of life.
- (b) On our environment, age, sex, and occupation.
- (c) On our inherited or acquired temperament, taste, and bent.
- (d) On the selective bent of our individual tissue, which makes the amount and kind of rest, exercise, food, sleep, suit us as they do no one else.

### III.

Now are these differences of individuality such as to preclude the possibility of framing any set of requirements for health, such as our hygienic books have usually contained? A "required course" for health, we answer, like required courses in college, will soon become extinct; but a group-selective system will remain. From among a group of possible ways of being well each man will have to choose one by

instinct and experiment. For example, you belong either to the group of those who can rest by change of work or to those who cannot. Instinct and experiment will enable you to judge. You are either a no-breakfast man or you are not, and so on.

To work out the actually existing and practicable methods of keeping well at or near which each man is likely to live is the job to which we propose to devote a good deal of time and money during the coming years. We propose to collect, if we can, the statistics of the actual habits of fifty thousand healthy Americans, the healthiest that we can get in touch with through physicians and other intelligent persons in different parts of this country.

How has hygienic success been actually achieved? What methods of keeping well are the most often successful in this country at the present time?

Imagine, for example, that statistics should show that 80 per cent. of healthy Americans eat three meals a day, 5 per cent. eat no breakfast, and 4.5 per cent. no lunch, while only  $\frac{1}{2}$  per cent. skip the evening meal. It would hardly be worth while to experiment much with a no-dinner plan, but one would want to find out by experiment whether one is better without breakfast or without lunch. If it should turn out to be true that one-half the healthiest people to be found eat meat but once a day, while a third eat it twice, and the rest three times a day, one would wish to try these experiments, but would not consider it worth while to try eating no proteid whatever, nor making one's diet exclusively proteid.

In colonial days, when our race was more homogeneous and the range of our possible activities more limited than they are now, the variety of hygienically successful methods of living may very well have been fewer. Just as all gentlemen were in colonial times of one religion and belonged to but two or three professions, so it may very well have seemed as heretical to speculate or experiment in hygiene as in religion. Authority decided such matters.

Now with the freedom of conscience and the right of private judgments in politics and religion are coming, we believe, the right and the duty of the individual layman to prevent

disease by working out for himself his own method of keeping well.

Any one who has watched himself carefully must have noticed how sharp and clean-cut his individual limits are. You can walk easily for miles just inside your individual limit of strength; but, if any one pushes you even a little way beyond it, you are tired in fifteen minutes. Yet it will tire you almost as much to have to hold your pace down to that of a slower walker as it would to hurry after the champion pedestrian. By instinct and experiment you find your proper pace, and then it varies little for years. So it is with sleep, food, recreation. You can work for months just within your normal sleep limits; but, if you cut down sleep even a half-hour a night below your limit, it will show at once in the *quality of your work*, if not in more obvious forms of ill-health.

The individual's best path of life, then, is sharply marked out and not difficult to determine. *But it may be almost impossible for any outsider to determine it, even if the outsider is a physician.* Suppose some one else tried to decide for you how fast you should walk, what the natural swing of your gait should be. He might be very careful, and by constant observation of your various paces come fairly near the right one; but it would be a great waste of energy for a result only approximately correct.

The individual should be urged to find out for himself how to keep well. We count it a great misfortune or disgrace if an American arrives at manhood without knowing the three R's; but it needs only a little reflection to make us realize that it is a far worse calamity to grow up without knowing what rests you, whether change of work is your best recreation, whether you are better with a low proteid diet, a low or high intake of water, and what your *vocation* or hobby is.

Have you not sweated blood in the attempt to discover for a man of forty what his proper *avocation* is, or for a woman of thirty-five what is her proper work? And, as you labored, has it never aggravated your toil to recognize that this job should have been done by the patient himself years before?

To find out for another man how he ought to live is as awkward as to tie his necktie for him. You *can* do it somehow or other, but he can feel his way and adjust his motions much more accurately himself.



The individual factors in hygiene are so many and so essential that in the great movements of preventive medicine it is the layman who, with some general guidance, must work out the salvation that will make for the best hygiene in the future. We are often told that doctors should prevent disease instead of trying to patch up the poor wrecks who present examples of the hopeless results of long years of hygienic failure. But we cannot believe that the most important work in this line can be done by the doctor. It is a waste of energy for him to attempt it in most cases. Moreover, the educated layman will more and more resent the attempt. I think it will not be long before it will be held as presumptuous for us to attempt to prescribe by general rules a man's best way of living, as it would be for us to prescribe his wife, his profession, his political or religious opinions. Private judgment and unwillingness to submit to authority will spread to this sphere,— nay, have already spread far in that direction *already*.

We will recur for a moment to our own plans. Our belief is (as we have tried to indicate) that the hygiene of the future will be not a series of commands, "Thus do, or thou shalt die," but a *map* showing a number of practicable roads, each preferred and found satisfactory by a group of persons of a certain build, a certain ideal of life, a certain inherited and acquired set of the tissues. "On or near some of these roads," we shall say, "you will probably travel. Look them over as you do in choosing a profession, a house, or a town to settle in. Find out which suits you best, then follow it."

Now our ambition is to assist in the construction of this map, to find out by the collection of an enormous body of statistics of healthy people what workable sets of habits now exist in regard to food, water, exercise, sleep, work, recreation, and the rest. Such a map of passable roads will not bind the individual to walk on any one of them, but, if he wishes to roam in the fields or ditches, he will at least be conscious of what he is doing, and where the ordinary roads are if he cares to return.

To collect the body of statistics on which such a map could be based will need the co-operation of many intelligent persons all over this country, and later we shall be asking members of the profession to co-operate with us in the task.

### 3. CREMATION OF THE DEAD.

BY JAMES R. CHADWICK, M.D., PRESIDENT OF THE  
MASSACHUSETTS CREMATION SOCIETY.

Crementation was widely prevalent among the ancients, although inhumation was the original mode of disposing of the dead. The bodies were in the earliest ages buried in the habitations of the living. As far back as history goes, we find that the Romans had no special places for interment of the dead. The same is true of the ancient Greeks. Cicero tells us that the legislation of Solon interdicted burial within the walls of Athens. Plato urged that the cemeteries should be in the fields. In spite of such legislation the desire was to have the dead in the bosom of the family, where they became tutelary deities, so that recourse was had to cremation and a preservation of the ashes on the domestic altar. This custom, when carried out within the cities, gave rise to frequent conflagrations, so that laws were passed forbidding either inhumation or burning of the dead within the walls of Rome. The difficulty of transporting the body of a person who had died away from his country contributed to the introduction of incineration. Homer describes the frightful carnage in the Trojan War which necessitated a resort to the funeral pyre to disinfect the field of battle and to remove the dead bodies from the depredations of wild beasts and birds of prey, when they could not be buried promptly. The fear of contagion and the profanation of the dead made legitimate this change from the accustomed practice. In time of war there was also the profanation by the enemy or by robbers of the bodies of those slain, which contributed to the introduction of cremation. Sylla, after having committed the most sacrilegious profanation on the body of Marius, ordered that his own body be burned, that he might escape a like posthumous vengeance. From this event dates the use of cremation among Roman patricians. There was also a belief that fire, besides purifying the earthly body, detached the soul more rapidly from the bonds of the flesh and at the same time purified it.

Among the Jews cremation was never adopted, as inhumation has always been regarded as a sacred duty. Yet in the Year Book of the Central Conference of the American Rabbis (1892-93) I find a report made by B. Felsenthal to the Rev. Isaac S. Moses, chairman of a Committee on Cremation from a Jewish Standpoint, which concludes with this paragraph: "Be it *Resolved*, That, in case we should be invited to officiate as ministers of religion at the cremation of a departed co-religionist, we ought not to refuse on the plea that cremation be anti-Jewish or irreligious."

In the East cremation has always been in vogue, probably having had its origin in Hindustan, where it was regarded as an expiatory sacrifice to the Sun, the god of light and heat, to the end that the soul purified by fire might penetrate to the luminous regions of the stars. Superstition was here the controlling motive.

I might adduce facts regarding nearly all the early races of India and Africa, showing their adoption of cremation as a means of disposing of the dead, their apparent motive being religious; but underlying this sentiment there was, as usually happens, a practical reason, in this instance hygienic.

In recent times the cremation of the remains of the poet Shelley and his friend Williams is familiar to all. Their bodies, washed ashore after the foundering of their vessel, were buried upon the shore of Viareggio, covered with strong lime, in accordance with existing sanitary regulations. On Aug. 15, 1822, Trelawney, Byron, and Hunt exhumed the bodies from their temporary graves, and, having collected spars and planks cast upon the shore from wrecks, besides the fallen and decaying timber in a stunted pine forest close at hand, as fuel, they erected the iron furnace previously procured from Leghorn. The funeral pyre having been prepared, the fire was applied, frankincense and salt were thrown into the fire, and a flask of wine and oil poured over the bodies. When the funeral pyre burnt low, the furnace was uncovered, and nothing remained but dark-colored ashes with fragments of the larger bones. After the furnace had been cooled by immersion in the sea, the human ashes were gathered and placed in a small oak box.

The time at my disposal impels me to pass at once to the subject of

## MODERN CREMATION,

which is a further development of the same ideas which in 1823 led Dr. Jacob Bigelow in this community to advocate the establishment of extra-mural cemeteries, in order, as he expressed it in his closing sentence, to give "security to the living with respect and repose to the dead." His action resulted in the establishment of Mt. Auburn Cemetery in 1830, the first of our rural cemeteries. This movement became general throughout the civilized world, so that very few interments now take place within the confines of cities. This measure might meet the requirements of modern sanitation, were it not that cities will spread and enclose within their limits the cemeteries that but yesterday were rural.

We cremationists, therefore, believe that civilized nations, which have the welfare of the populace at heart, must go a step further, and reduce by fire the dead body to innocuousness before it is deposited in its final resting-place.

As to religious scruples, it is undoubtedly a fact that, as Christianity triumphed over Paganism in Europe, burning, as a means of disposing of the dead, gave place to burial; and for centuries that custom has been universal throughout Christendom. But there is nothing in the Christian Scriptures either enjoining burial or forbidding cremation, and the preference for the former custom among the early Christians is easily intelligible on grounds quite independent of, and apart from, religious conviction. Burial could be conducted in secret, burning could not; and, in their long struggle with persecution, the early Christians must have found that secrecy was necessary to avoid molestation in the performance of those religious rites which every creed associates with the disposal of the dead. Doubtless, too, they were influenced by the example of the Jewish people, among whom their religion had had its birth, and by veneration for a practice which had been hallowed in the person of its Divine Founder. On the other hand, cremation, as practised by their pagan contemporaries, would as certainly be identified with Pagan rites, which would render it an abomination in their eyes; and in the darker ages the visible destruction of the body by fire might easily come to be considered as placing a barrier in

the way of that resurrection of the body which is a fundamental article of the Christian creed. But it is now universally known that, so far as the body is concerned, the ultimate results of the processes of decomposition and combustion are identical. Except possibly among the Jews there is no religious dogma among civilized races which opposes this disposition of our dead.

The Roman Catholic Church forbids the faithful to practise cremation, but the pope does not allege, as a ground for his interdiction, that cremation contravenes any of the doctrines or dogmas of the Church. The letter of July 27, 1892, emanating from the "Congregation of the Inquisition," with, I assume, the sanction of the pope, forbids cremation without giving any reasons. It is, however, justifiable to infer from its context that the reasons for this action are largely social and political, partly because cremation is in France and some other countries of Europe a tenet of Freemasonry, between which organization and the papacy there has always been a feud.

That I may do no injustice in this matter, I have obtained from one high in authority in this city a precise statement of the position of the Roman Catholic Church:—

(1) The Church is opposed to cremation.

(2) If a dying person declares his resolve to have his body cremated, priests will not give him the sacraments or bury him with Catholic rites.

(3) But, if the body *is to be cremated* AGAINST the will of the deceased, the body may be brought to the church for mass and blessing, or blessed at the house (where the deceased died), and after the cremation the ashes (without any religious service) may be deposited in consecrated ground.

The priest, however, may NOT accompany the body to the crematory for any rites, nor even for social or civil reasons.

Lest there be the least doubt in the mind of any devout Episcopalian as to the attitude of that Church, I would merely adduce the fact that the late Phillips Brooks, when bishop of Massachusetts, was one of the first to subscribe to stock of the Massachusetts Cremation Society, and became one of its vice-presidents, and that the present bishop, William Lawrence, is a vice-president of our society.

Having thus disposed of the religious scruples which might influence some people against our propaganda, I turn to the chief considerations which have weight in favor of our innovation upon the familiar mode of disposing of the dead.

The subject may be approached from three points of view:—

(1) The *economic*, which is not so unimportant as might at first appear. The cost of burial by the usual method is lavish. The shroud, the coffin, the labor of digging a grave, essential now in all burials, the funeral carriages, the vaults or lots in cemeteries, are a heavy tax upon surviving relatives.

If transportation of the body on the railroad is needed, the rate is the same as for a living individual: that of the ashes after incineration is practically insignificant. At Forest Hills we cremate the body in the coffin, and recommend a coffin that costs but twenty-five dollars. We have bodies brought to us in coffins that cost but five dollars.

The chief economic waste is involved in the necessity of devoting large tracts of valuable land in the vicinity of our larger cities to purposes of burial, and the extravagant, often ostentatious, and generally hideous monuments erected over the graves. The city of Brooklyn, N.Y., is a flagrant instance, wherein two thousand acres of land are occupied by cemeteries.

(2) From the *hygienic* standpoint I am not prepared to claim all that writers on this subject advance. Bear in mind that all that has lived must die, and that all that is dead must be disintegrated, dissolved, or gasified, the elements which are the substratum of life must enter into new cycles of life. If things were otherwise, the matter of organized beings would encumber the surface of the earth, and the law of the perpetuity of life would be compromised by the gradual exhaustion of its materials. One grand phenomenon presides over this vast work,—the phenomenon of fermentation, of putrefaction, of slow combustion.

There can be no question as to the pernicious effect of the noisome emanation from a vault in which bodies are decaying upon the health of the worshippers in the chapel above it. There can be no question as to the baleful influence of a cemetery located in a densely populated area upon the health of the surrounding people, either through the atmosphere, or,

if they are dependent upon wells for their water supply, through contamination of the water.

When cemeteries are located so remotely from our cities that the latter will never grow to include the burying-grounds, there is no reason to apprehend any considerable harm to the health of the adjacent peoples. This, unfortunately, has not often been the case hitherto.

You will observe that, while recognizing that the effluvia emanating from decomposing bodies in a graveyard may produce a deleterious effect upon the general health of those exposed to them, I have not asserted that any specific disease is likely to be produced.

When we come to consider the zymotic diseases, such as yellow fever, typhoid fever, scarlet fever, cholera, diphtheria, tetanus, etc., the evidence that there is any dissemination of epidemics or of individual cases from bodies in burying-grounds is inconclusive. When bacteriology was young, and the presence of bacteria as the cause of such diseases was unrecognized, the public, and even scientific men, had no means of gauging the assertion that one or another epidemic had originated from a cemetery. But to-day the presence of microbes, the action of the microbes, and their capacity for dissemination are fairly well understood. For instance, the pathogenic germs, by which term I mean the germs that will produce in a living being any of the contagious diseases, are known to be destroyed by the germs of decomposition. How soon these bacteria of the various contagious diseases succumb to their enemies, the bacteria of decomposition, is not positively known; but data tend to indicate that in most cases it is a matter of only a few weeks. "Decay, the return of the body to its final elements, is not a simple chemical process, but a very complicated one, induced for the most part by the action of various bacteria upon organized tissues, converting them into mid-products. The nitrification of the organic products is also due to the presence of bacteria. When a body is buried under six feet of earth, oxygen is practically excluded, so that the process of decomposition is retarded because the bacteria have an inadequate supply of oxygen for their development. For this reason more of the poisonous mid-products of decomposition are allowed to form, hence the body becomes a source

of danger to the living by those soluble products of decomposition designated by the general name of ptomaines." These ptomaines would be a source of ill-health if they could reach their victims; but, being within the body of the deceased, within a coffin and perhaps a brick vault, and buried under six to eight feet of earth, they have little chance of escaping and disseminating their virus. Even if they were able to invade a living body, they would not produce the specific disease of which the deceased died.

I have read many accounts of the spread of contagions from graveyards in all parts of the world, but find myself sceptical as to the alleged source of the infection. Until bacteriologists are able to demonstrate a causal relationship between a cemetery in which infected bodies have been buried and an epidemic in the surrounding population, I can only withhold my judgment.

(3) The *sentimental* aspect of the question seems to me entitled to most weight.

The problem presented to us, uncomplicated by tradition and religious beliefs, is a very simple one. The soul, the vital principle, the *ego*, or whatever your special philosophy calls it, has departed from its tenement of clay, and we have simply to see that the discarded flesh may be broken up into its diverse chemical elements without injury to the living. There is nothing sacred or sacramental in burial apart from what man's ingenuity has invented. The grave is but a clumsy contrivance to save the feelings of the survivors by putting out of sight a grievous spectacle. "Is there any more wisdom or philosophy, filial piety or humanity, public or private utility or religion, in enclosing in iron, stone, or lead a putrescent human body, as if forever there to remain unchanged, than in treating a similar and equal mass of any other animal matter in the same way? Is it not rather to counteract the course of nature, as though we were wiser than its author?" \*

We constantly hear people alluding in terms of gratification to the "green sward that covers the graves of their ancestors," not knowing of, or refusing to believe in, the reeking mass of corruption which lies below. The truth about this subject must be disseminated, with a realization of which will come



a determination on the part of thoughtful persons to guide their sentiments more in accordance with the facts.

Cremation offers a happy solution of a subject which, under any circumstances, is gruesome and often heart-rending.

What do we cremationists offer as a substitute for this revolting condition? We offer to reduce the dead human body to its constituent chemical elements in as many minutes as burial takes years, simply by a process of rapid combustion with no attendant horrors, with no peril to the living, and at a minimum of cost. The body passes upon a catafalque from the chapel, where the funeral service has been held, is gently slid into a retort. The doors are closed, a swirl of flame, produced by the combustion of three sprays of petroleum, envelops the body in its coffin, and in one to one and a half hours there remain but four to five pounds of white ash. There is no smoke, no odor, no unpleasant attendant circumstances.

There is a hope in the hearts of most people that, when they lay the bodies of their dear friends in the earth, they are safe from disturbance. Without taking into account the body-snatching and the theft of bodies for pecuniary purposes, as in the case of A. T. Stewart, let me cite several instances of unwitting desecration which have occurred recently in this city and in New York.

The new building of the Union Club-house, at 7 Park Street, covers in part an old stable abutting on the Granary Burying-ground. Under this stable three old tombs were uncovered, of which two were empty, but one contained a score or so of wooden coffins. There was no clue to the identity of the owners of these tombs or of those interred in them. In the rear of the site of the buildings Nos. 12 and 14 Beacon Street, which were built upon by the American Congregational Association, were fourteen tombs, which had to be removed to make way for the cellars of the projected building. In excavating the subway under Tremont Street in Boston, one night the workmen invaded the King's Chapel Burial-ground, and discovered a whole colony of departed fathers, but hastily closed up the pit.

In the *Boston Journal* of Sept. 27, 1897, is a letter from Clinton, Mass., describing the agitation among the parishioners of St. John's (Catholic) Church on the announcement that

St. John's Cemetery would be taken by the State for the Metropolitan Water-works. This cemetery was laid out in 1847, and contained four thousand to four thousand five hundred bodies, which were removed, together with the tombstones, to a new cemetery.

In New York, one of the oldest cemeteries, situated in the Twelfth Ward, known as God's Acre, was removed to make way for new streets. Beneath the mounds scattered through this cemetery reposed the remains of many who took part in the struggle of the Revolution.

Laborers at work excavating the lot on the north-east corner of Read Street and Broadway, New York, unearthed three perfect skeletons and fifteen skulls.

The old Union Cemetery in Brooklyn was sold for business lots; and Contractor Farrell was employed to remove the bodies, amounting to about 30,000, and re-inter them in the Cedar Grove Cemetery.

From *Town Topics*, a journal in which we do not expect to find such consideration for the feelings of others, I take the following paragraph:—

Recent revelations in regard to New York churchyards constitute a new argument in favor of cremation. Somebody tried to break open a tomb in St. Paul's yard, and then the fact was developed that nobody knew whose tomb it was, as the church records do not give the locations of the different graves. Simultaneously, a corporation notice was issued to the effect that old St. John's Graveyard, on Hudson Street, was to be turned into a public park; and it was significantly added that "the remains will not be disturbed, but the tombstones will be buried," thus making an identification of the separate graves impossible. Washington Square is on the site of an ancient burial-place, long since forgotten. Former generations of New York went to much expense and trouble to provide their dead with vaults and tombs, according to their station in life, each inscribed with names and dates; but these few years have blotted out the records, and reduced the buried thousands to an indistinguishable mass of refuse. Cremation is more decent, more reverent, and more individual. When you have in an urn the ashes of a dead relative or friend, you may be reasonably certain whose ashes are in the urn, and may preserve the precious receptacle among the family treasures, with little risk that it will become mixed up with the urns of total strangers. All the concomitants of old

churchyard burials are horrible. I have seen things in a family vault that sicken me to recall, but, so long as people insist upon burials, there is no security that the new, picturesque cemetery of the present time may not be the old, neglected, desecrated graveyard of the next generation. Cremation is not only more healthful for the survivors, it is a better means of assuring the identity of the dead.

Such instances could be multiplied indefinitely.

Under the impulse of one or all of these considerations, men and women of intelligence and refinement have banded themselves together in all civilized countries to build crematories and to spread a knowledge of the merits of this reform. In the past thirty years twenty-seven crematories have been erected in Italy, eight in Germany, nine in England, two in Sweden, two in France, four in Switzerland, one in Denmark, one in Argentina, and one in Australia.

In this country the earliest disposals of the body by burning of which I can find record were those of a negro named Jack and a negress named Maria, who in 1681 were executed in Roxbury for arson, after which their bodies were taken down and burned.

In 1775 Mark and Phillis, two colored slaves of Captain John Codman, poisoned their master in Cambridge with arsenic. On September 18 Phillis was condemned to be burned to death, Mark to be hanged by the neck. The process of burning Phillis is described as follows:—

One end of a cord was fastened to the stake, thence carried round the neck of the woman. It was pulled tightly the moment the torch was applied, and the strain continued until life was extinct, which in such cases generally happened before the condemned had suffered much from the intensity of the flames, unless the cord was sooner burnt asunder.

The first crematory was erected by Dr. F. Julius Lemoyne in the village of Washington, Pa., in 1876, primarily for the incineration of his own body, but he permitted its use by others to such an extent that thirty-eight bodies were there reduced to ashes in the following eight years. This method of disposing of the dead met with such favor throughout the land that there are now twenty-five crematories in operation, cover-

ing every section of the country from California to Massachusetts. In these crematories the number of incinerations has increased steadily, so that in the year 1903 they numbered 2,915.

Through the courtesy of the Board of Health of the city of Boston, I am able to give you a detailed statement of these operations.

# Cremations in the United States, 1876-1904, inclusive.

## CREMATION.

For centuries the method of disposal of the dead was entombment and earth-burial. About a quarter of a century ago cremation of dead bodies was introduced, and this method is now gradually spreading among civilized nations, as will be seen by the following table.

In order to ascertain the annual increasing number of cremations, official inquiries were addressed to the superintendents of the different crematories in the United States and Europe.

CREMATORIES.	Date estab- lished.	1876 to																				1904.									
		1876	1877	1878	1879	1880	1881	1882	1883	1884	1885	1886	1887	1888	1889	1890	1891	1892	1893	1894	1895		1896	1897	1898	1899	1900	1901	1902	1903	
New York City (U.S. Cremation Co.) . .	1885																														
Buffalo, N.Y. . . . .	"																														
Troy, N.Y. . . . .	1890																														
Swinburne Island, N.Y. . . . .	1886																														
Waterville, N.Y. . . . .	1893																														
St. Louis, Mo. . . . .	1888																														
Philadelphia, Pa. . . . .	"																														
San Francisco, Cal. (Odd Fellows')	1895																														
Boston, Mass. . . . .	1893																														
Cincinnati, Ohio . . . . .	1887																														
San Francisco, Cal. (Cypress Lawn)	1893																														
Chicago, Ill. . . . .	"																														
Los Angeles, Cal. . . . .	1887																														
Detroit, Mich. . . . .	"																														
Pittsburg, Pa. . . . .	1886																														
Baltimore, Md. . . . .	1889																														
Lancaster, Pa. . . . .	1884																														
Davenport, Ia. . . . .	1891																														
Milwaukee, Wis. . . . .	1895																														
Washington, D.C. . . . .	1896																														
Pasadena, Cal. . . . .	1895																														
Washington, Pa. . . . .	1876																														
St. Paul, Minn. . . . .	1897																														
Fort Wayne, Ind. . . . .	1895																														
Mt. Auburn, Mass. (Cambridge) . . .	1900																														
Totals . . . . .	-	25	16	47	114	127	100	249	372	471	561	674	831	1,017	1,101	1,391	1,699	2,012	2,379	2,646	2,880	2,015	3,220								

# Summary of Cremations in Italian Cities.

* Cities.	Date of inauguration.	1876.	1877.	1878.	1879.	1880.	1881.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.	1900.	1901.	1902.	1903.	1904.
ITALY.		2	0	14	25	40	70	67	44	61	76	61	55	76	85	73	65	66	74	72	64	65	104	92	99	92	107	107	92	
Milan . . .	1876									2	3	4	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	
Lodi . . .	1887									1	3	32	33	50	90	74	48	75	55	61	54	49	37	29	55	52	22	22	1	4
Rome . . .	1883									15	20	43	33	59	10	5	8	4	4	3	7	3	3	3	3	3	3	3	3	
Cremona . .	"									4	5	5	9	10	10	5	8	4	3	3	4	3	3	3	3	3	3	3	3	
Brescia . .	"									5	2	2	4	4	2	4	4	3	3	3	3	3	3	3	3	3	3	3	3	
Verona . . .	1884									2	4	5	4	7	5	6	4	3	8	3	3	4	2	3	4	6	2	2	2	
Modena . . .	"									1	4	5	4	4	2	3	2	6	2	2	2	1	1	3	2	2	2	2	2	
Venice . . .	"									1	2	1	2	1	5	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Spokito . . .	1885									1	1	2	2	1	3	1	1	7	1	3	1	1	1	1	2	4	2	5	3	
Perugia . . .	"									1	2	2	2	18	21	20	16	24	18	19	24	11	14	13	14	17	20	20	24	18
Siena . . . .	"									14	16	26	18	21	20	20	16	24	18	19	24	11	14	13	14	17	20	20	24	18
Bera . . . .	"									8	13	20	10	20	26	9	16	16	11	9	24	1	1	13	13	14	22	25	19	
Alexandria .	1886									1	1	3	1	3	3	2	3	4	10	1	1	1	1	1	1	1	1	1	1	
Como . . . .	"									5	2	1	1	2	3	1	2	2	2	2	1	1	1	1	1	1	1	1	1	
Turin . . . .	1887									18	12	10	12	18	12	10	28	14	22	21	11	22	17	28	14	19	23	17	24	30
Mantua . . .	"									1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
St. Remo . .	1888									5	10	10	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	8
Verona . . .	"									3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	
Bologna . . .	1889									2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	
Modena . . .	"									10	12	5	11	3	11	14	20	19	20	19	20	22	21	26	22	22	21	26	26	
Venice . . .	"									2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	
Spokito . . .	1891									1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Perugia . . .	1894									1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Siena . . . .	1895									1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Bera . . . .	1897									1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Total . . .		2	15	16	27	45	75	69	70	116	164	180	168	227	282	258	221	262	246	228	220	219	242	241	265	262				

\* Dott. Lodovico Forresti, Statistica delle Cremazioni eseguita in Europa nel Secolo XIX., 1876-1900. Editto a cura della Società di Cremazioni in Bologna.

# Summary of Crematories and Cremations in Several European Cities.

CREMATORIES.	1878.	1879.	1880.	1881.	1882.	1883.	1884.	1885.	1886.	1887.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.	1900.	1901.	1902.	1903.	1904.
Germany:																											
Cottbus . . . . .	1	17	16	33	33	46	69	76	95	110	95	128	111	162	162	153	130	132	147	188	170	200	180	218	234	276	301
Heidelberg . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	57	79	90	90	105	125	151	146	164	164	164	164
Hamburg . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	48	68	41	76	81	111	145	181	187	187	187
Jena . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	21	46	47	81	91	123
Offenbach . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5	110	82	128	118	123
Total . . . . .	1	17	16	33	33	46	69	76	95	110	95	128	111	165	221	251	316	264	313	374	423	513	637	666	804		
England:																											
London (Woking)	-	-	-	-	-	-	-	3	10	13	28	46	54	99	104	101	125	150	137	173	240	240	301	273	275	*301	358
Manchester . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	20	47	58	52	51	62	88	84	96	81	86	86
Glasgow . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	7	16	19	16	20	18	20	24	20
Liverpool . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	7	23	23	40	9	40	54	38	40
Total . . . . .	-	-	-	-	-	-	-	3	10	13	28	46	54	99	107	121	172	209	206	263	337	384	414	427	430	449	438
Sweden:																											
Stockholm . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Göteborg . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
France:																											
Paris . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Rouen . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Switzerland:																											
Zürich . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Basle . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Denmark:																											
Copenhagen . . . . .	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

\* Woking 143 and Golder's Green 158 (now called The London Cremation Co., Ltd.).

† The discrepancy is unexplainable.

Among that remarkable people, the Japanese, cremation has long been practised,—originally in the open air, for many years in buildings erected for the purpose. In the city of Tokio in 1898 (I have no later information) there were seven crematories, that of Nippori had thirty-two furnaces. In 1888 34 per cent. of the dead, or 11,000 bodies, were cremated; in 1898, 40 per cent., or 15,000 bodies.

#### THE DISPOSAL OF THE ASHES.

I am constantly asked, "What do people do with the ashes?" I will close by giving our experience at the crematory at Forest Hills. The ashes generally weigh four to five pounds. In about 200 cases out of 2,500 bodies cremated in the past eleven years, we have been told "to scatter the ashes to the winds," which we do in the pine grove surrounding our building.

In 375 cases the ashes have been left in our care in suitable urns or vases until such time as we have means to build a columbarium with niches for their permanent care. In the remaining 2,000 cases the ashes have been taken away by the relatives, and we have lost track of them. We know that in many instances they have been buried in the family lot in some cemetery.

We are now building beneath our chapel a columbarium, one section of which will be finished within two months.

Lanciani, in his "Pagan and Christian Rome," tells us that inhumation seems to have been more common than cremation in prehistoric Rome, but that inhumation was abandoned toward the end of the fifth century of Rome, to be resumed only toward the middle of the second century after Christ. The acceptance of cremation brought as a consequence the institution of *ustrina*, the sacred enclosures in which pyres were built to convert the corpses into ashes. The columbaria owe their existence to the same cause. These latter were a specialty of Rome and the Campagna, being found nowhere else. They begin to appear about twenty years after Christ. No cleaner, healthier, or more respectable substitute for the old *putioli* could have been contrived by Augustus. Any one, no matter how low in social position, could secure a decent place of rest for a paltry sum of money.



There were three classes of columbaria: first, those built by one man or one family, either for their own personal use or for their servants and freedmen; second, those built by one or more individuals for speculation, in which any one could secure a place; third, those built by a company for the personal use of shareholders and contributors.

I am able to show you one of the oldest forms of cinerary urns, said to date from 200 to 300 B.C. Beside it stand samples of the urns made for us by the Dedham Pottery Company and the Grueby Faience Company of South Boston.

The Japanese have exceeded us in simplifying the problem of preserving the symbols of the dead. When a cremation is completed, they seek in the ashes until they find a small pebble, which they pick out, put into a small glass globe, and, enclosing that in a shrine, preserve it among their family treasures. I have three of these shrines to show you. On what they base their beliefs it is hard to understand. I have had one of these pebbles analyzed. It proved to consist chiefly of silica, like the pebbles on our beaches, and could not be, in any way, a product of the burning of a body. Moreover, we can find no similar pebbles in our retorts after a cremation.

In conclusion let me read to you how the poet Callimachus, in Eleusis, near Alexandria, was affected, B.C. 260-240, by hearing that his old friend, the poet Heracleitus, had died and been cremated.

#### EPITAPH ON HERACLEITUS.

They told me, Heracleitus, they told me you were dead;  
They brought me bitter news to hear and bitter tears to shed.  
I wept as I remembered how often you and I  
Had tired the sun with talking and sent him down the sky.

And now that thou art lying, my dear old Carian guest,  
A handful of gray ashes, long, long ago at rest,  
Still are thy pleasant voices, thy nightingales, awake;  
For Death, he taketh all away, but these he cannot take.

DISCUSSION BY RICHARD W. HALE, TREASURER OF MASSACHUSETTS  
CREMATION SOCIETY.

After the way in which Dr. Chadwick has covered the ground, the best addition which I can make is to speak on the points which have come directly under my observation both as a lawyer interested in the cause of cremation and as the executive head, managing and in charge of the Crematory of the Massachusetts Cremation Society.

The law has no illusions upon the subject of the permanence of the human body after death. The graveyards in the city of London have existed too many hundreds of years, and they alone serve as a conclusive proof to the contrary. And so at common law it is established that the right of the individual is to occupy with his body a place in the churchyard for so long as is necessary for his remains to go through the process of combustion and return to dust. So clearly is this law established that, when an enterprising Englishman desired to have his wife buried in an iron coffin sealed so as to protect her remains, the English Ecclesiastical Court passed upon the question, and decided that she had no right to anything more than burial under the ordinary circumstances and the ordinary exposure to decay. The British king who answered an invader by offering to share with him the land of England and to give him for his part six feet by three, oversteated the law, for even the right to occupy a particular portion of the ground is not assured to the individual at the common law.

Under these circumstances, cremation, which is merely a swifter form of combustion, has presented no difficulties to the law. The only legislation which has been necessary is that designed to protect the improvement against its use as a means of concealing death by violence or by poison. The Massachusetts statute provides for this well. The responsibility is not cast upon the Cremation Society, but upon a State official. The medical examiner, who is the Massachusetts improvement upon the ancient coroner, and is charged with all questions of law in the criminal courts which require the services of men with medical skill, is also charged by the cremation statute with the examination of the body of any dead person whom it is proposed to cremate. He makes his certificate that he has viewed the body, and that, in his opinion farther examination into the cause of the death of the deceased person is unnecessary; and upon that certificate we rely. In the years during which we have operated no breath of suspicion has suggested that any wrong use was made of cremation; and our practice compares favorably with the utter freedom from responsibility which enables any undertaker in the country to remove the evidence of poison in the apparent course of his duty.

So much for the law. The practical side as it has presented itself in our experience at Forest Hills is chiefly interesting because of two features.

The first is the circumstance that after cremation there is no necessary permanence and no obstructing presence to be cared for. The second, which is in a way the consequence of the first, is that cremation offers a much greater flexibility in dealing with the modern conditions after death. Many people who come to us for cremation leave instruction that the ashes may be scattered; and, where that is done reverently and carefully, as we do it, no farther responsibility exists upon the living. That seems to me by far the best thing which cremation has brought, for I ardently desire that my remains may not encumber the earth after me or interfere in any way, large or small, with its occupation by the living, and I think that many others ardently desire the same result for themselves. But it is no necessary feature of cremation. On the contrary, the most interesting thing about the new process, as we see it in practice, is its flexibility. Consider the awful circumstances of death in a foreign country. Consider how, in such case, modern sanitary regulations make it impossible to carry out the wishes of those who prefer to have their family gathered together in one cemetery lot at home, with all the associations which that permits, and then note how cremation makes it possible to preserve and maintain this sentiment. After cremation, for instance in Italy, no difficulty exists; and there is no reason why ashes of the dead cannot be brought across the water and to New England and to the particular country cemetery where they can lie with the remains of others of the family, and be cared for by the living in a lot which represents to the latter the place of rest for the bodies of all those who have gone before. Or for those who are not tied to any cemetery lot we are now building a columbarium at Forest Hills, where it is possible to secure space for the permanent deposit of a suitable urn containing the ashes of the dead. Some niches in this columbarium correspond to the family tomb, and will enable a large number of urns to be placed together in one spot.

On the whole, then, cremation brings the great improvement that the remains of the dead do not encumber the earth or interfere with the living; and this improvement is of the best kind, because it does not uproot any conservative tradition or interfere with any modern practice. It gives flexibility without necessary innovation, and it enables us to adapt intelligently the disposal of the dead to the modern conditions of such a country as the United States.

#### 4. THE HISTORY AND RESULTS OF FOOD LEGISLATION IN MASSACHUSETTS.

BY DR. CHARLES HARRINGTON, OF BOSTON.

[Read Friday morning, May 12.]

Prior to the year 1882, the laws relating to the inspection and sale of foods in Massachusetts included one concerning milk and one concerning vinegar (both of which were very imperfectly enforced), and a number of special laws of no practical importance, which, so far as can be ascertained, were not enforced at all. The legislature of the year mentioned enacted a general law entitled "An Act Relating to the Adulteration of Food and Drugs," which, after setting forth what should be held to constitute adulteration, and defining the terms "food" and "drug," provided that the State Board of Health, Lunacy, and Charity should appoint inspectors and analysts; should make all necessary investigations and inquiries in reference to the food and drug supply; should make rules and regulations concerning the collection and examination of samples; and should establish standards not specifically provided. For carrying out the provisions of the act, the sum of \$3,000 was appropriated. The law was approved on May 28, and went into effect three months later; whereupon the Board appointed an analyst of foods and an analyst of drugs, who were directed to collect and examine samples, with such assistance as they might require, the appropriation being not large enough to permit the employment of regular inspectors.

The investigations made in the two fields showed that the market was in a most deplorable condition. In spite of the fact that the law relating to the inspection and sale of milk had been in existence for many years, the milk supply was found to be especially poor, adulteration being almost universally practised in the cities and large towns. So great was this evil that in the following year, 1883, the legislature amended the Act by increasing the appropriation to \$5,000,

with the proviso that two-fifths of the whole should be expended in enforcing the milk law. Accordingly, two additional analysts were appointed, whose sole duty it was to look after this part of the work. The first report of the analyst for the eastern portion of the State showed that no less than 77.45 per cent. of all samples examined failed to conform to the requirements of the statute. In Boston the percentage of adulterated samples was 86.78; in East Boston it was 80; in South Boston it was 93.75; in Charlestown it was 92.86; in Cambridge, 83.33.

At that time, and long prior thereto, the local inspectors did little more than carry out the provision of the law that they should keep an office and issue licenses. In most of the cities the duty of serving as inspector devolved upon the city marshal or other salaried official, who received therefor no extra compensation, or, at most, a trifling sum, like \$25.

Owing to the conditions found by the several analysts to exist in their different fields, the legislature of 1884 made further amendments of the Food and Drug Act, the most important of which increased the appropriation to \$10,000, whereof not less than \$6,000 should be devoted to the enforcement of the laws relating to milk and milk products. This enabled the Board to appoint regular inspectors, who, by law, were clothed with all the authority given to local inspectors. At the same time, the city of Boston set her sister municipalities an example by appointing to the office of milk inspector a trained chemist, and giving him proper quarters wherein to maintain a laboratory. No provision was made, however, for an assistant chemist or for regular paid collectors; but in the following year a generous appropriation was made, and since that time, both as an independent department and after being merged into the Department of Health, the office has had as a staff an inspector, a chemist, a clerk, and never less than three collectors of samples, and latterly, also, a bacteriologist. From time to time other cities and a number of towns have seen the wisdom of equipping proper laboratories, and of having the office conducted not as a sinecure, but to serve a real purpose.

The general law relating to food and drugs was not materially amended between 1884 and 1901; but in the latter year it

was strengthened by the addition of a section prohibiting the use of certain preservatives, unless their presence and percentage are clearly set forth on the label in letters of a certain size, and by further legislation regulating the manner in which so-called *compounds* shall be labelled so that the purchaser may know their percentage composition. The amendment relative to the use of preservatives settled a much-vexed question; for, while the law prohibited the sale of foods containing ingredients injurious to the health of the consumer, authorities are by no means in agreement as to whether certain of the substances employed as preservatives exert an injurious influence on the system. The amendment waives the question, and leaves it to the consumer to decide whether he cares to assume the risk; but the vendor must acquaint him of the fact that the product is chemically preserved.

The sum placed at the disposal of the State Board of Health, which has had charge of the administration of the general law since its re-establishment as a separate board in 1886, has been increased from time to time to \$12,500, which is its present annual appropriation for this branch of its work.

The laws relating to the inspection and sale of milk, butter, and oleomargarine have been amended from time to time as occasion demonstrated a need of change. The standard requirement as to total solids of milk has been lowered from 13 to 12 per cent. for the time from April 1 to September 30; a standard for milk fat has been established in order to prevent the removal of cream and admixture of condensed skimmed milk for the purpose of restoring the percentage of total solids; and the penalty for a first offence of possession or sale of milk not of standard quality has been reduced. But the penalty for the sale of skimmed milk not properly marked or of milk containing added foreign matter has been allowed to stand.

In consequence of fraudulent practices in the sale of oleomargarine, the law relating thereto has been amended a number of times, beginning in 1885; and at the present time, on account of national and State legislation, but little of that product is to be found on the market, and that in an uncolored form. The most stringent laws relating to oleomargarine were passed by the legislature of 1891, which also established

the Dairy Bureau, with co-ordinate power (in the enforcement of the laws relating to milk, milk products, and oleomargarine) with the State Board of Health. These laws were contested even to the Supreme Court of the United States, which handed down a decision favorable to the State, and established their constitutionality. Later, the legislature directed its attention to the substance known as "renovated" or "process" butter, and enacted a law, still in force, providing for its proper marking, so that it may not be sold as ordinary butter.

Returning now to the work of the State Board of Health in the administration of the general law: as has been said, the conditions found when the investigation was begun were not creditable. The market was flooded with adulterated goods, largely from neighboring States, and the milk supply was apparently hopelessly bad. The work was at first one of investigation and warning. Dealers whose goods were found to be impure were served with notices calling the facts to their attention, and warning them of the danger of prosecution. No cases were brought into court until the closing month of 1883. In 1884, forty-eight cases were brought, mainly for the sale of adulterated milk, and these had, of course, much influence. Later, as the work progressed, stricter measures were adopted. The system of warning retailers had its effect upon wholesalers, and soon many brands of adulterated goods were driven from the market; but many remained. From the beginning until the present time, the object has been to conserve the interests of the public with justice to all concerned.

During the first eight years of the law, the analysis of samples was conducted by the analysts of the Board in their own laboratories; but in the year 1891, most of the work was placed in charge of one chemist in a small laboratory established by the Board in an office building, where it was conducted until the present laboratory in the State House was ready for occupancy in 1895, since which time all but a small part of the work (which is done in the western part of the State) has been performed by two chemists, supplied with samples by three inspectors, who visit all parts of the State and conduct all proceedings in the lower courts. By a rule of the Board, the supervision of the work is delegated to the secretary, who

directs the inspectors where samples shall be collected and what prosecutions shall be made.

The records of the office show that since the beginning of the work about 90,000 samples of milk, about 60,000 samples of foods other than milk, and about 15,000 samples of drugs have been examined, or about 165,000 samples in all. Up to Sept. 30, 1904, an average of 90 cases per year, or about 1,800 cases in all, were prosecuted in the courts, all but a few of which resulted in conviction, and more than \$42,000 were paid in fines. Since the beginning of the present year the law regarding the use of preservatives has been enforced with reasonable strictness, after a proper period of warning; and a large number of convictions have been secured.

The main object of the work, however, is neither prosecution nor persecution, but the protection of the public; and the main result is a food supply which has undergone vast improvement, and the saving to the consumer of very many times the sum expended in bringing this condition about.

[Dr. Harrington is now Secretary of the State Board of Health, and has been connected with this important part of the Board's work for more than twenty years.]



## 5. DANGERS TO THE HEALTH OF EMPLOYEES IN INDUSTRIAL ESTABLISHMENTS.

BY DR. L. M. PALMER, A MEDICAL EXAMINER.

[Read Friday morning, May 12.]

In the year 1904 the legislature of Massachusetts passed a resolve directing its State Board of Health "to investigate the sanitary conditions of factories, workshops, and other places of employment in the Commonwealth of Massachusetts, with respect to all conditions which may endanger the life and limbs or be prejudicial to the health of the persons employed therein." I had the pleasure and the honor to do a part of that important work, and it is to some of the results or findings of that investigation that I have been invited to call your attention to-day. We are hoping and expecting that the work already done has been only preliminary to a larger work along the same lines in the near future, for the conditions found show very emphatically the need of a greater and stricter supervision of health conditions under which the great body of our people spend at least one-third of their lives.

There is an old adage that "an ounce of prevention is worth a pound of cure." In the light of present-day thought and science, and especially as regards health and health conditions, this saying should be revised so as to read, "A grain of prevention is worth a ton of cure." In fact, to speak paradoxically, the only real cure of disease is to prevent it, like the familiar story of the school-boy who said in his composition that pins had saved a great many lives "by not swallowing them." Contrary to the general conception, it is Nature that cures, and the physician's work is to clear the way, and give Nature a fair chance. The gifted Beecher once foolishly said that there grew within sight of every man's grave some herb-which, if rightly understood and applied, might have saved his life.

Blind faith in the atoning efficacy of some medicine to remove the penalty of some physical sin works great mischief

in the care the ordinary workingman takes of himself. He thinks he can disregard the ordinary rules of health and yet have or regain health by taking something. The patent medicine curse fosters this delusion by promising to cure from the same bottle every disease that flesh is heir to, from cancer to catarrh; and, unfortunately, the people believe it and take the vile stuff, thus making the doctors ten times the business they would otherwise have.

Having this point of view, the average person becomes indifferent or careless to the dangers which may surround him in the workshop or in his home. It is an encouraging fact, however, that enough are awakening to their danger to demand, through organized efforts, better laws from the government for their safety and betterment. On the other side of the problem is the employer. With the present tendency to the formation of trusts and large corporations the result is for less and less of that much-to-be-desired personal contact and relation between the employer and employee. The stockholders look to the directors for dividends only. The directors demand of the superintendents and foremen the earning of those dividends, and the foreman's business is to see to it that the workmen deliver the goods that earn the dividends. From force of circumstances he must be more concerned with results than with means. The workmen, therefore, become the means to an end.

It is not necessarily because those in authority are not kind and humane or considerate that our manufacturing establishments are not sanitary or healthful, but because their healthfulness is a secondary consideration and has not been called to their attention. Many a time did some member of a firm say to me, "I did not know, doctor, that such conditions as these existed," or, "I never saw this before, and I will see to it that it is made better."

Between the carelessness and the filthy habits of laborers and the indifference of those in authority and the lack of a proper supervision, our industries are not what they ought to be as regards health conditions, or what they can be with mutual advantage to the employer and the employee. If it is to the material advantage of the farmer and the teamster to have his dumb animals well fed and well housed, certainly

it must be equally advantageous to have the average workman equally well cared for.

My work as sanitary inspector took me into a hundred of the largest manufacturing establishments in Eastern Massachusetts, where I saw the conditions under which approximately seventy thousand people worked and spent one-third of their time. My inspection was given to those employments that vital statistics show to give the greatest percentages of death, and are also shown by the records of other countries, more advanced than we are in sanitary science and laws, to "be prejudicial to the health of the persons employed therein." The principal causative elements of danger sought for were dust, either vegetable, mineral, or metallic; diseases, such as anthrax, small-pox, and other infectious diseases; and particular heed was given to questions of ventilation and sanitation.

The manufactories indicated and inspected were cotton, woolen, and silk mills, paper mills, factories where were made leather, boots and shoes, axes, shovels, and metal tools, rubber boots and shoes, watches, wire and nails, white lead, lead pipes, traps and solder, paper tags and boxes, electrical supplies, celluloid and bone goods (such as combs), crockery and glazing, cigars, confectionery, cocoa and chocolates, jewelry, curled hair, "crackers" and fancy biscuits; also tanneries, quarries, and stone-cutting works, optical works, file-cutting, cotton machinery and machine shops, straw shops, laundries, etc. Other industries will suggest themselves to you as needing inspection. This is doubtless true, and they were not inspected in this present investigation simply from lack of time. We were, on the whole, courteously and kindly received (this showing a commendable interest in our work and object). Those who were proud of their factories, and trying to do the right thing, so far as they knew, were always glad to welcome us, and frequently said if they were not right they wanted to know in what respect, that they might make it right. Those having factories that needed inspection were not glad to see us.

A visit to the Sanatorium for Tuberculosis at Rutland, Mass., and a study of their statistics gave some clews of evidence. I have questioned how much of the details of these dangerous trades which I have inspected might interest or in-

struct you, and have decided that you would care more for results and general principles than for details.

The occupations that produce a great volume of dust are detrimental to health because they produce irritation in the respiratory system, and thus predispose the workman to the diseases common to that system,—of the lungs, bronchial tubes, nose, and throat. The mineral and metallic dusts are far more harmful and dangerous than the so-called vegetable dust. For instance, the stone-cutters and polishers, who have to breathe freely the fine stone dust, regard consumption as the stone-cutters' disease. A recent report of the National Stone-cutters' Union showed that out of 96 deaths, among those on the beneficiary list, 45 died from consumption in one year. I was also told that statistics show that the average age among stone-cutters is forty-five years. The danger to those who inhale dust arising from the grinding of metal tools gives also what the workmen call "grinders' consumption." A skilful physician, who had had thirty years of experience among these workmen, told me that four or five years was the limit which these men could work at grinding without injury to their health; and in his experience he had seen five different nationalities try the work, each to do less than the one before. The lungs in these fatal cases become hardened and filled with grit. The dust in the sorting-rooms of paper mills is excessive, and it seemed to me needless; yet I did not learn that it was particularly unhealthful, while the laborers themselves were amused at the thought, and offered their own experience and appearance as good proof of the opposite.

Contrary to the general feeling, there does not seem to have been much danger of small-pox from the handling of domestic or foreign rags. The danger to workmen in cotton mills is not so much from the vegetable cotton dust as from the high temperature and great humidity. In the cool October weather I frequently found rooms having a temperature of from 80°–90° F. with a humidity of 75°, furnishing the best kind of medium for the culture of the germs of tuberculosis. Experience seems to show that the Greek workmen are the most susceptible to this danger. The heat and moisture are necessary for good work in this industry. There are two other dangers, however, that I saw in cotton mills that should be mentioned,

and can be avoided: first, the holding of bobbins in the mouth, when changing them upon the machines; second, the threading of shuttles by sucking the thread through with the mouth. Any infectious disease lurking in the mouth of one person may, under favorable conditions, be communicated to the next one in these two ways.

The danger to those who work upon or with lead is naturally from lead poisoning. This is taken into the system either from dust inhaled, as in the mixing-rooms of rubber factories or in the drying-rooms and ovens of lead factories, or it is taken in through the mouth from soiled hands. There is the same danger to painters and printers. These dangers are being eliminated by careful manufacturers, and often against unwilling workmen. Cleanliness, here as elsewhere, is the key to health.

Another occupation dangerous to workmen, and with, perhaps, danger in the product, is cigar-making. If the great army of smokers could see how the cigar which they roll as a sweet morsel in their mouths is made, they would do one of two things, either smoke less or not at all, or insist on their being better made. I found in this industry two nasty customs: first, the biting off of the end of the cigar and the wetting of the fingers with saliva from the mouth to aid in finishing up the end of the cigar neatly; second, after the loose pieces of tobacco upon the floor have been spit upon and walked upon all day, with shoes covered with dirt from the street and filth from the water-closets, they are swept up at night and sold again to be used as filling for cheaper cigars. Nicotine alone is bad enough, but nicotine *plus* is too bad.

Another danger to the workmen in this industry is from overcrowding. I found the men seated in serried columns, literally elbow to elbow and back to back. In one room, 100 feet by 80, were 125 women; in a second room, 100 by 80, were 150 men; in a third room, 100 by 80, were 175 men; and in a fourth, 100 by 46, were 145 men. These rooms had no ventilation except from the windows, and those were generally closed, though the day was mild. The air in these rooms was perfectly horrible. I found upon the walls of these work-rooms the notices of the Society for the Prevention of Tuberculosis, approved by the trade-unions. Too many, I fear,

thought that with the posting and subscribing to the rules their duty was done.

The industries thus far called to your attention are only some of the most striking examples of the dangerous occupations that I inspected. There are others I might cite to you, did interest warrant it, and other industries that ought to be, but were not inspected in this State, simply from lack of opportunity. There are conditions, dangerous along general lines, that can be found in practically all manufacturing establishments. I refer to overcrowding, lack of ventilation, lack of good sanitary arrangements, and the danger of contracting tuberculosis from promiscuous spitting upon the floors and hallways in factories and work-rooms.

The trinity of good health is bright sunshine, fresh air, and pure water,—all free gifts of God, to be had for the taking. In Massachusetts we require that our school-houses and public halls shall be ventilated, yet out of one hundred places I inspected only one was ventilated for the sake of pure air alone. The ventilation, when there was any, was from the windows, which is better than none, it is true, but not what it can and should be. Many rooms were ventilated indirectly for other purposes.

Another common danger is from the water-closets, etc. As a rule they are within and a part of the work-room, often are dark, damp, dirty, and not ventilated, and sometimes can be smelled as far as a cheese stall in a German market. Because of interference by insurance companies these toilet-rooms are sometimes only sheathed up six or eight feet, and open at the top. If the health conditions in public buildings could be as rigidly inspected and restricted as the dollars and cents conditions are, when regulated by the insurance companies, the State could save tenfold this cost.

Another danger, generally ridiculed through ignorance, is the nasty habit of spitting. If it were simply nasty, it might be endured; but, when dangerous to public health, it ought to be restricted. The whole world was shocked when at Martinique, in 1902, were destroyed 30,000 people in a day, yet the United States offers up every year 100,000 victims to what Holmes has so aptly called "the great white plague," and the whole world is losing two every minute from the same

cause. Some ingenious mathematician has estimated that every tubercular person expectorates 7,000,000,000 germs every day. I don't know this to be a fact, for I never counted them. My twenty-five years of experience and knowledge as a busy doctor has convinced me positively that consumption is a dangerous, infectious, communicable, and preventable disease, and that our safety is in educating the public from their lethargy to their danger. When the great educator, the daily paper, will open its eyes to our greatest danger, instead of using the scare-head lines for spotted fever, which is not a public menace, we may hope for a proper public realization of the danger from promiscuous spitting in public places, and see it stopped. If the State has the disposition and the power to care for its people when made sick, it certainly is reasonable to say that it has the equal right to do those things which will prevent sickness, even though it encroaches upon that bug-bear of personal liberty.

I am of the opinion, formed from personal interviews, that the great majority of our manufacturers will welcome any legislation that will help improve the health conditions of their operatives. To make any health laws effective, the local health officers of each municipality should be chosen for their efficiency, and receive a recompense commensurate with the value and nature of their service instead of the beggarly pittance or free service now given so generously to an unappreciative public. With changing conditions in manufacture has come a change in the type of the worker, and with the change a danger from the lower class of workers. In one mill I saw notices posted on the walls in six different languages, showing the diversity of nationalities in the present immigration.

I wish to close my paper by referring to the brighter humanitarian side of industrial conditions. In spite of the strikes and the labor wars, I saw a growing tendency to do those things that elevate and benefit the working-people. The hand-toilers are banding themselves together to better their condition. The brain-toilers, the employers, beautify the grounds about their factories. They furnish hospital room, with a few necessary things for accidents and sudden sickness, a lunch counter or restaurant with hot food and drink for those who cannot or do not go home for the noon hour, or they fur-

nish a reading-room or recreation-room for the spare hours or evenings, and the best part of it all is, they all say that "it pays."

Let me close with a bright picture of an ideal condition that really exists within this city to-day,—in a very large modern seven-story, brick, up-to-date factory, employing 3,000 hands, owned and operated by a man who worked his way up from the bench by his own grit and force of character. Knowing from experience the side of the workman, he has installed within his plant a system of profit-sharing, based on the grade of work done, a sick and death benefit insurance, one of the finest gymnasiums, with bath-rooms for a large class at a time, and a paid instructor, a hospital room, a large restaurant with food at cost, a library, a reading-room, a small dancing-hall with a piano for the girls, and a billiard, bowling, and card room for the boys. And he says, "It pays."



## 6. RESEARCH INTO THE CAUSES AND ANTECEDENTS OF DISEASE: ITS IMPORTANCE TO SOCIETY.

BY THEOBALD SMITH, A.M., M.D., GEORGE FABYAN PROFESSOR  
OF COMPARATIVE PATHOLOGY, HARVARD UNIVERSITY.

[Read Friday morning, May 12, 1905.]

Medical science, or the study of disease, is but a part of the science of life, or biology. If we possessed an insight into the entire scheme of life upon the globe, and if equipped with this knowledge we could take our position a little beyond our earth and watch, year in, year out, with microscope or telescope the living things, we should probably come to the conclusion that disease was but an episode in life, an eddy in its current, or perhaps a normal, even necessary, manifestation of life's unceasing movements. When we come down from aloft and mingle with the human current, disease assumes a more portentous outline. It is an ever-present reality, and the annals of history and literature are pathetic records of its influence upon the mind of man. So our opinion of disease will change as we successively view it as a factor in the entire life of the globe, in the life of the community, and in that of the individual.

Medical science may approach the study of disease from one of these standpoints. Disease may be investigated from the purely biological standpoint as a disturbed equilibrium of life, following change of environment. It may be studied from the standpoint of society, with an eye to the political economy of health and vigor of body; or, finally, it may be studied with reference to the immediate needs of the afflicted individual. These spheres of work are not mutually exclusive: they depend on each other, but they emphasize widely different phases in the problem.

The different views which we may take of disease as a factor in the life of the world need perhaps some illustration to make them intelligible. Nature in its various realms

and subdivisions may be considered as governed by a great multitude of contending forces in unstable equilibrium. When this equilibrium is temporarily disturbed, something goes wrong with the individuals composing such realms. The difficulty becomes adjusted when the equilibrium has been restored. The gradual evolution of mankind into a higher social organism has been accompanied by continual disturbances of equilibrium both in external nature and in man himself. Among the former we may cite as familiar illustrations the deforestation of the land, the gathering of human beings into cities, and the resulting smoke, dust, and noise-nuisances which are all creations of man himself; and, lastly, the wide dissemination of disease-germs by the movements of human beings and the transportation of animals and of the products of the soil. Disturbance in the physiological organization of individual man has likewise been noted. Premature decay of teeth and loss of hair, loss of muscular power, of physical endurance, sterility, and many other abnormalities are familiar to all. It is the price we must pay for progress, so called. It will be seen that there is, as it were, a conflict of interests between the individual and the overshadowing society of which he forms a very small part. This conflict is particularly well brought out in the study of disease or the pathology of our physical existence. It has its counterpart in the study of diseases of the moral life, or social pathology, likewise a result of social organization.

The true function of medical science is to study these disturbances of equilibrium between man and his environment, to anticipate them, and to suggest those compensatory movements which will counterbalance the temporary ill effects of social movements. This ideal conception of the functions of medical science is far from being realized to-day, partly because medical science itself is still in its infancy, partly because men still cling to the older notions of disease current centuries ago. The popular conception appears to be that the physician in some mysterious manner, by the application of drugs, may drive out disease. Disease is personified into an entity, and its elimination regarded as an act of the doctor. But even the educated man makes unnatural demands upon the healing art. Many are looking expectantly for the discovery

of an elixir of life, which will make the old young and keep the young from growing old. Many think that, if only enough money can be applied to research, medicine may come to control natural laws and save us from the consequences of transgression. All that research can do, however, is to analyze more profoundly and teach more thoroughly the natural laws which govern disease, and the necessity for submitting to them.

Mingled with this mediæval conception of medicine, and often obscured by it, is another which gained great momentum during the latter half of the century just passed. It is expressed in the simple query, What is the cause of this disease? and is slowly but surely supplanting the query, Is there any cure for this? Indeed, wonderful cures in the popular sense will be discussed with the same interest at the end of the twentieth century that characterized the discussion of the miracles of the gospel at the end of the nineteenth century. But the disappearance of the popular conceptions of cure, reflected in pages on pages of advertised nostrums and miles of bill-boards, does not supplant the physician. His skill will no longer depend upon the mysterious formulæ he may carry in his pockets, but upon that keen, delicate touch with nature and the adjustment of hundreds of details which will put the patient in the most sympathetic relation with forces acting on him from within as well as from without. He will be more needed than ever in the growing complexity of our environment, and his skill and breadth of knowledge must be proportionately greater.

The gradual analysis of the causation of disease by modern medical science is the foundation of that other branch of medicine which, instead of dealing with the individual directly, deals with him collectively through society or the State. As causation is indissolubly linked to the idea of prevention, so State medicine is essentially preventive in its scope. The antithesis then is between individual and social medicine, between the conceptions of cure and prevention, between superstition and science. Lest I be misunderstood, it will be necessary to illustrate this antithesis in some detail.

Man is forever seeking the causes of things. A philosopher of the eighteenth century humorously named him the cause

animal (*Ursachenthier*). This quest for causes is characteristic of the human mind, and is the secret of its physical domination of the world. If we recall any important event of our life and trace it back, we are surprised to find from what slight antecedents or causes it sprang. It is easy to construct a chain of sequences for any event, one depending on the other, like a row of blocks of the child. The touch of a finger sets them all tumbling over, one against the other. This interdependence of comparatively unimportant causes and great consequences has been immortalized in not a few homely proverbs.

Much the same is true when we come to study the incidents of disease. Strange as it may seem, diseases actually in progress date their beginning not from the day or hour of ill feeling, but to some earlier period. In the infectious diseases the beginning dates from the time of infection. During the period of incubation the microscopic parasites are laying their mines whose explosion opens the actual illness. In other grave maladies, especially of later life, the beginnings are insidious, the appearance of the disease often a crisis or an explosion in a long concatenation of events. It is in the diseases due to micro-organisms that come from without that the chain of sequences is often easily traced, owing to the great advances made by medical science in recent years. In pursuing the chain of events leading to disease, medical science reasoned thus: If we know that such and such events, antecedents, or causes, lead to such maladies, we must interfere with these antecedents: we must break the chain. But the great task was to find the chain. Its links were almost wholly buried. Only here and there was one accessible: some were too strong to be broken. Gradually medicine unearthed more links that could be broken, and to-day the infectious diseases are so well under control because of the many links broken by science. A single block taken from the row interferes with the child's game. So it does in the dissemination of contagious diseases.

We might use another simile. The phenomena of life may be compared to a network of threads, in which we occupy the points of intersection. Entangled in these meshes which appear to grow more complex each year, we are exposed to

the attack of disease travelling along these lines from many quarters. Medical science endeavors to trace these intersecting lines back as far as possible, and break them wherever it finds a weak spot. If we were endowed with the sense of telepathy, we would hear many a click where sanitary science is breaking a thread that was carrying disease to our door.

In the intricacy of modern life, prevention is likely to be imperfect. The State, as represented by its legislature, may refuse to pass necessary laws, or the appointed official may, through indifference, execute them in a lax way. Hence the necessity for finding means of arresting diseases which cannot be absolutely prevented. For this purpose medical science is pursuing this chain of events into the body of the patient with the hope that something may be done to interfere with the progress of a malady that could not be prevented. Hundreds of students are at work to-day in the laboratories of Europe and our own country endeavoring to discover how the body gets well, what the chain of events is which leads to recovery. If this can be analyzed into its elements, may it not be possible to provide the physician with a weapon which will cut the thread and stop the momentum of the disease? Medical science has been successful recently in providing such means for one dreaded disease, diphtheria.

Even in the ordinary every-day ailments not due to micro-organisms, the doctrine of causation lies at the bottom of the most successful treatment. Accepting the definition that disease is largely due to disturbances of equilibrium between ourselves and our environment, the best physician tries to find out, one by one, the disturbances that have led to the diseased condition. These are removed whenever possible. He does not cure the abnormal condition due to them, but by removing the causes he affords abused nature the opportunity to act normally, or even assists nature to hurry along recovery. There is a remarkable power inherent in life to re-establish a normal condition when the pressure has been removed. There are few things in biology so wonderful as this. How important then to find out what is interfering with the proper relation between us and our environment.

If we examine this conception of disease as a series of sequences or causes coming to us from without, and continuing

within us to recovery or death, we find embedded in it another most important fact. It is this,—that it becomes more and more difficult to stop the momentum of disease, or, if possible to stop it, it requires more and more energy to do so, the nearer it approaches us from without, the longer we wait after it has attacked us. It is like something rolling down an inclined plane, or like the little mass of snow which gathers into an avalanche on the mountain slope. It is much easier to check the entry of a virus into our body than to stop its momentum when once there. It is far simpler to provide a pure water supply than to alleviate the misery and pain and face the irretrievable losses of an epidemic. For many of the most serious diseases we can check the dissemination by comparatively simple means; but, when they have been neglected, the only thing that can be done is to rely upon the healing power of nature under the guidance of the best physicians. We can prevent infectious diseases if we will really and earnestly set to work to do so, but we cannot always prevent death in those once infected.

The collective dealing with the causes of disease whose radiation in many directions is readily prevented when once those causes have been recognized, has another virtue which is worth considering. It is infinitely cheaper to prevent than to treat disease. The burden entailed upon society in the care of the sick is excessive. It involves not only the savings of the poor, but the health and strength and often the life of those upon whom the task of nursing may fall. On the other hand, the burdens due to the machinery of public medicine are slight, and borne by all in proportion to their means. It matters not how promising remedies and cures may be, a little examination will show that they are expensive, and that the means for their application are largely provided by public-spirited citizens in the form of charity. Only a comparatively small number of sufferers can be reached by them, owing to insufficient means for applying a costly treatment. Individual medicine depends really upon a surplus of energy in the world. When in the distant future that shall have been exhausted, only public medicine will survive.

There is still one other thought hidden in this conception of dealing with the sequences leading to disease as near their

ultimate source as possible: it is futurity. We interfere with the causes leading to the ills of to-morrow, for those of to-day we must endure. The physician prepares to-day for any possible relapse which may threaten his patient to-morrow or next week, perhaps. We permit ourselves to be vaccinated to acquire a resistance that may not come into play at all. The physician administers antitoxin for a sore throat, even though he is not yet certain that it is diphtheria, because he thus gains a precious twenty-four hours.

The apparent antithesis between cure and prevention with which we started out in our discourse does not turn out to be real. The same methods are pursued by the physician scientifically trained and by the sanitarian. All are working under the same laws. All try to stop the process of disease somewhere in its course. The sluice-gates may easily divert a stream near its sources in the mountains: they may be applied with equal skill to the swollen torrent in the lowlands, but frequently without avail. The physician has the more difficult and trying task, and many times the laws of nature block his path.

Medical science must continue its work of analyzing more and more minutely all the phenomena that go to make up disease. For by this continual analysis we learn where we may gain control of the future, with the least effort and the greatest chances of success. No amount of intuition and speculation apart from the study of the thing itself can assist us. When the human species left the plane of animal life and bade farewell to instinct, its controlling guide, the only thing to do was to construct life through reason, by the most thorough analysis possible. Our only protection from disease is in the most exhaustive study we can make; and the more complete our knowledge of its mechanism, the nearer we shall approach complete control.

This work of analysis is being pursued with much patient observation and experimenting. Insight cannot be gained, analysis of phenomena is impossible, without experiment. Much criticism has been bestowed by people of culture, refinement, and often of the highest standing, upon medical science, on account of experimentation upon animal life. They are, however, either uninformed of the necessary trend of science

and its objects or else wholly out of touch with them. Medical science cannot take any backward step, for the survival of the human race itself depends upon its successful adaptation to a changing environment which must be thoroughly understood. Our well-meaning anti-vivisectionists may claim with some show of reason that sooner or later the proper equilibrium will be restored without the aid of medical science. But the sacrifice of life would be appalling under such a *laissez-faire* régime: it would reduce our population to the number of the aboriginal savages, where civilization would have to start anew and only with individuals who by neglect have become immune to all the ills that nature may provide. Whether the human race could survive the onslaught of all the micro-organisms of disease, without the erection of artificial barriers, is to me highly questionable. It is true that the lower types have survived in different parts of the world, but we forget that the germs of infectious diseases had their special homes, just as the valuable and noxious plants and insects had their different centres of origin. With growing intercourse, each original centre of population, immunized through centuries and perhaps thousands of years to its own few diseases, would be brought in contact with some fatal plant of another portion of the globe, and be partly swept away by it. Only with the aid of medical science has man been able to overrun the globe with more and more speed, without at the same time bringing back with him the germs of fatal diseases. What would become of our population to-day if small-pox, cholera, the plague, typhoid, and the children's diseases were allowed to run riot? The critics of experimental medicine do not appear to realize that the knowledge how to control these diseases comes only by the most persistent analytic experiments. It is something of an anomaly to see a small body of people, all of them thoroughly protected by the silent workings of medical science, and moving about with perfect immunity, some of them perhaps never ill, never in danger, living to a good age because of the protecting wall medical science has built around them, and yet moving annually upon our State House to induce the law-making body either to prohibit medical science or, if that be impossible, to police and license it as we do dram-shops.



The same method of work characteristic of medical science has been adopted in other fields of human activity. I refer to them here simply to show that, if medical science is on the wrong path, it is not travelling alone. Perhaps the most encouraging sign to those interested in the welfare of their fellow-beings is the adoption of this method in philanthropic work. Indiscriminate almsgiving has been almost wholly replaced by a rational scientific study of causes, and by the giving of aid only so far as to place the beneficiary in harmony with his environment. The causes of social discontent and poverty are being investigated on all sides, and the simple palliative of evils is received with less and less patience by thinking people. The remedy for bad citizenship is placed where it should be,—upon the education of the young. The chain of events starts early in life, and the emphasis is now placed there where it belongs.

The conception of causation and its corollary, prevention, is on the whole so simple, it pervades our daily life to such an extent, that it seems strange that in the province of disease it should not be accorded its proper place. That medical science should concentrate its attention upon something that may happen to-morrow, instead of wasting valuable time upon what has happened to-day and cannot be recalled, seems strange to most of us; and yet it is the essence of all successful dealing with disease. In this sense the best physician is sanitarian first and dispenser of medicines afterwards.

If the true work of medical science is to trace the antecedents or causes of disease, these are sufficiently varied to give employment to minds of widely different attainments. These causes are to be sought for in our hereditary characters, in our present and past activities, and in our environment. A most potent group of causes, to which I have merely alluded, is to be found in the realm of micro-organisms. It is of interest to note that civilized man, who has subjugated or annihilated all species of large animals, finds the difficulty of controlling and suppressing them in inverse proportion to the size of the offending species. Many predatory and destructive insects which disturb agriculture are still at large, and many of the microscopic and ultra-microscopic organisms which cause disease baffle the scrutiny of science. With this study of micro-

organisms is bound up the phenomenon of parasitism,—one of fundamental importance to all life. Parasitism implies a continual struggle between the highest and the lowest forms, and the investigation of the conditions which surround this struggle will be for some time to come the most fruitful field for research. Parasitism is not an unknown phenomenon in the social and political life of mankind, but there we observe the curious fact that the parasites belong to the same species as those who support them. Among lower forms of life, and especially in the causation of disease, the parasite stands at a much lower level than the host. We may, of course, say that the political parasite lives upon the "organization" rather than upon the individuals composing it, but to the taxpayer this distinction would not be very convincing. The political parasite is but one of a great variety of species. We have others, such as the tariff parasite, the rebate parasite, the franchise parasite, and so on. Without going farther in this tempting comparative study, I may state that there is much in the phenomena of infectious diseases which suggests certain pathological states of the social organism; and I believe that much mutual assistance could be obtained by an occasional interchange of ideas and theories between the student of social and the student of biological pathology. On many an occasion I have received encouragement and suggestions in the study of microbic warfare by noting what would happen if microbes were men, and men microbes.

So far I have dealt with the pure science of medical research. In order that this pure science may become useful to society, it must be applied to the every-day conditions of life. The working out of general biological laws governing disease is of fundamental importance; but it must be supplemented by the labors of the physician, the health officer, the teacher, and the parent. This brings us to a brief consideration of the ethical bearing of applied medical science. Pure science, as such, is not concerned with ethics. Its object is to grasp and explain those forces which are working upon the body from within and without. The moral element is not introduced: the great discoveries have no ethical value until applied by us for certain ends. This daily application of new facts and theories concerning disease influences our moral life, both as

individuals and members of the family and as component elements of a larger social organism. Let us look at these in turn very briefly.

With clearer insight into disease processes, the duties of each one of us in behalf of health and against diseased conditions become more definite, and our privilege to be sick is correspondingly curtailed. Under the earlier point of view the patient was the main and sole object of attention in his affliction; and, while this may still be true, increasing knowledge has placed upon all a certain duty to avoid the known steps leading to disease. Not only does some responsibility rest on the patient himself, but modern sanitation steps in to protect the patient's family and neighbors in case of infectious diseases. No longer is he the sole object of attention, but the community, the State, the public health, as it were, sees to it that the well are protected and that the patient does not unwittingly cause damage. The segregation of disease is not a new idea of the nineteenth century, for it has been practised since the lepers of early Scriptural times were made outcasts. It stands, however, in the foreground of preventive medicine to-day. I do not wish to imply that this shifting of the centre of gravity from the patient to a point beyond is necessarily accompanied by less interest in the unfortunate, for at no time have the sick received greater care than to-day. It is simply one of those readjustments necessitated by our progress in insight.

The newer views concerning the causation of disease and the desirability and necessity of maintaining a normal existence may lead, as all new movements do, to an over-estimation of mere health and bodily vigor. Health at all hazards may easily become a bulwark behind which to shirk our responsibilities. To-day social judgment is rather lenient upon this point, for health, or an over-development of physique which is often taken for health, is at present among certain classes something of a fetich, which dominates and to a certain extent causes atrophy of more important faculties. Its influence is only too evident in the abnormal and militant athleticism of our higher institutions of learning.

Our relation as individuals to the social organism in matters pertaining to our physical welfare is in many respects made

very complex by continual changes in this organism. Our health is very largely dependent on a certain environment with which we may regard ourselves in equilibrium. If this is disturbed, disease may follow. With the growing complexity of society and the greater interdependence of its members, our personal control over our environment becomes more and more restricted. The air we breathe is vitiated by dust, smoke, and gases, over which we have no personal control. The food we eat is infected, manipulated, and adulterated without our knowledge. The beverages we consume unboiled may be highly charged with noxious bacteria. The public conveyances we must move about in may be peopled with dangerous diseases. Our homes may be invaded by poisonous illuminating gas, and asphyxiate us. We might continue indefinitely this recital of the slight personal control the social being has over his environment. With the rise of hotels, tenements, and densely packed hostelryes of all kinds in our large cities to take the place of the family home, we have practically abdicated much of the power we possessed over our surroundings.

The evils which have arisen to threaten our health are of two kinds. There are in the first place those which are the natural results of changing environment. They are the price we pay for the newer conveniences and luxuries of life. Though they may be mitigated, they cannot be eradicated. We must be content, for example, to live in less pure air than our forefathers did, if we must live in the heart of large cities. Our sedentary occupations cut us off from so much physical exercise each day. Our muscles atrophy, and it hardly pays to keep them fully developed when strength is needed for other purposes. We must learn to balance conditions and to choose between two kinds of environment, for we cannot have both.

Evils of another class are such as have slowly arisen on the initiative of individuals and groups of individuals in exploiting nature for personal gain or in exploiting the ignorance and credulity of their own kind. These evils appear in the vitiation of air, food, and drink, the sale of injurious drugs, and so on. But it would be wrong to assume that all those agencies which tend to injure us are the result of pure greed and malice. Many of the processes which are health-destroying

have been undertaken in a happy-go-lucky manner, without any thought of their final harmfulness. This may have been especially true in a relatively young country like ours. To cut down the forests was in the beginning a necessary act, and a salutary process in draining the soil and preparing it for human dwellings. But the process has long passed this stage, and is now threatening. Many of the difficulties with which society has to cope have grown offensive and dangerous, owing to an intensification of the processes at work, and to the denser population affected by them. To what extent the equilibrium between ourselves and our surrounding has been disturbed by social evolution, the three words "noise," "dust," and "smoke" bear witness. Noise is largely a product of civilization. The savage who can apparently endure a lot of it had but few means of making it. The civilized man makes plenty, but is far less able to endure it. Dust is likewise something invented by civilization. Nature knows but little of dust. It clothes all bare places with vegetation, and thus binds the soil together into a compact mass. The highway and the street of to-day represent the chief dust manufacturers. The constant attrition of perishable fabrics adds a not insignificant factor. Smoke was likewise a rare thing in nature, limited to volcanoes and the occasional effects of strokes of lighting. The use of fire for man's benefit is now universal. With it came smoke and soot.

Occasionally, conditions formerly regarded as injurious have lost much of their bad reputation through research. Some twenty-five years ago a factor entered to disturb the comfort and peace of city life. It was the alleged infectious character of sewer gas. Since then much legislation has become encrusted about this alleged fact, and a costly system for preventing sewer gas from entering our dwellings has been built up, known to us as sanitary plumbing. But slowly the tooth of time and careful investigation have eaten away one by one the privileges of sewer gas to produce various infectious diseases. To-day it would be difficult to state just what sewer gas does to injure health.

These few illustrations clearly indicate the intricacy of the situation in which the individual finds himself. Everything is in motion and change. Not only must medical science de-

termine the relative noxiousness of processes new and old, but after this has been fairly determined we must make a choice between the good and the evil in such processes. With many these are so balanced that only the special student can be trusted to speak the deciding word.

It is needless to say that very grave responsibilities rest upon the student of disease problems, in view of this situation. Not only should his work be done with the greatest skill and insight, and the application of medical science to industrial and social problems should be based upon the most accurate and reliable information available, but he must, in the face of niggardly compensation, maintain strict integrity. Already the powers who aim chiefly for gain are beginning to see that the public is trusting science and confiding in its results, and they are quietly attempting here and there to ally themselves with pure science and have its devotees unwittingly act as sponsors for their activities. It would, indeed, be a calamity if this should occur; but the mere possibility emphasizes the need of such public support of our growing medical laboratories that, like ideal courts of justice, they may be wholly above temptation to betray truth on the one hand and society on the other.

In conclusion, let me briefly recapitulate the thoughts I have so imperfectly presented. We have seen that the study of causes and antecedents is of fundamental importance in medicine as in other departments of human inquiry. The knowledge of causes leads to the treatment of them rather than of their effects. Our efforts are thereby directed largely to the future rather than to the immediate present, which simply registers the effect and is frequently beyond help. We have seen that for society to control causes of disease is infinitely less burdensome than to try to palliate effects. This preventive medicine is really the medicine of the social organism, the people's medicine, as contrasted with the treatment of the individual, which often requires resources beyond our reach, because the momentum of disease to be resisted has become so great when it has once manifested itself in the individual. Over and above the task of studying disease is the one which applies the results of such study to every-day life. With this application, ethical problems appear. Science merges into

art and practice, and the student of medical science must share responsibilities with all those whose function it is to watch over the welfare of the individual and of society, and to harmonize their frequently conflicting interests.

#### DISCUSSION.

As a rule, the health papers were not debated. Mr. Hale followed Dr. Chadwick's paper with a statement of the legal relations of cremation, which is annexed to the paper itself. After Dr. Cabot's entertaining and often extemporized remarks, which are given above in their form as written out, a discussion sprang up about the sanitary value of Mr. Horace Fletcher's advice to eat less food, do more chewing, and evoke what he calls "the swallowing impulse." His books on the subject of diet and exercise were cited by President Brooks, and Dr. Cabot was asked if the principles there laid down agreed with his own observation. Dr. C. said in substance that for many constitutions Mr. Fletcher's prescription of less food would be the best. Others, as he had intimated in the paper, might require much more food. No rule would apply to all cases.

President Brooks said that experiments made at New Haven by the authorities of the Sheffield Scientific School appeared to confirm the principles of Mr. Fletcher, so far as they went; and the experiment in Mr. Fletcher's case had a very striking result.

A few remarks were made in regard to the care of workmen by their employers, after the reading of Dr. Palmer's paper. That of Professor Smith, with its broad, general principles and suggestions of far-reaching significance, could not be amply debated in the brief time remaining at the end of the readings. It will be noticed that this general topic of sanitation went over into the Education Department, of which the papers might well be described as hygienic, although having regard to the peculiar liabilities of teachers and pupils to disease.

### III. DEPARTMENT OF SOCIAL ECONOMY.

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#### I. THE THEORY OF TAINTED MONEY.\*

BY JOHN GRAHAM BROOKS.

[Friday evening, May 12.]

Four years ago a committee was appointed by Bishop Potter to report upon a situation which involved whatever is contained in the term "tainted money." The committee consisted of Bishop Brent, Professor Ashley, Professor Scudder, and myself. For reasons that need not here be given the report was not completed.

My own part in it was to collect data on which one could form some opinion as to what meaning may attach to this troublesome phrase. There is a casuistry and a metaphysic on this subject that is very old. There are hoary abstractions without number. There are supersubtle distinctions connected with motive and intention which are thought to sanctify all gifts. On this side of motive, the metaphysic has a clear field; but the difficulty in every case of deciding what the actual motive was is so baffling that the casuistry is of precious little practical use when the concrete case arises. The ground is always clear in this discussion, so far as repentance follows the gift of doubtful origin.

There is an instance reported in which a group of Catholic priests devoted to propaganda for total abstinence refuse gifts from a saloon keeper in the parish, but gladly take the same money if he will stop selling rum.

This explains well enough what one would interpret to a class of children, but ought to take for granted with adults,—that such taint as exists is not on the coin, but in the man and his method of acquisition. Yet plenty of smart and scof-

\* The original copy of this address being lost, this was substituted by President Brooks.



ing objections are made even to the raising of such a problem, and the objections really assume that somebody proposes to distinguish between stained and unstained coins.

Another set of objectors think they turn the whole issue into an absurdity by showing how impossible it is to apply an ethical test to some part of the issue. The favorite illustration is the contribution-box. Here the coins are so obviously from every conceivable source, clean and unclean; and yet no one thinks of refusing them. Why, then, it is asked, should you refuse any gift? It is readily admitted that in this illustration there is no known device by which one coin could be refused and another kept. Neither from the side of motive nor from that of the giving act can we meet the difficulties. In a word, that specific problem is morally not a manageable one. We do not apply the test because we cannot.

There is an attractive church in one of our cities to which a good many women from the half-world are known to go, and some of them are said to be generous givers to church charities.

It is not thought they are there with any purpose of discontinuing their manner of life, yet no one thinks of omitting them when the plate is passed. To attempt this would probably be put down as a moral outrage.

Does it therefore follow that no part of the field offers instances in which this new moral sensitiveness can act? I note that many who condemn the attempt express great pleasure that men like Dr. Gladden and President Tucker show such high moral feeling in this dispute. But, if the feeling is a foolish one, this joy of the opponent is not flattering. It is too much like saying, You have mighty fine emotions, but you are, in this instance, destitute of good sense. I admire your heart, but about your head—the less said, the better.

It is especially to this part of the inquiry that I wish to speak. Does it follow because so large a part of the problem swarms with wholly unmanageable difficulties that we are condemned to give it up, in the sense of being constrained to take practically all moneys for causes like religion, morals, and education?

Four years ago, in the hope of getting a little light on this specific difficulty, I made, with some care, a list of questions

which I put during some months to the wisest men and women I could reach. They were largely persons before whom this ethical question had, or might at any time, come,—heads of institutions, overseers, directors, clergymen, and various kinds of ethical teachers.

The first question was this: "Would you accept money from any source for the enlargement of your educational work?" Those rather noted for practical wisdom in their communities almost invariably answered this with an amused but very confident affirmative.

This test was then submitted: "Would you accept the current receipts from a brothel, and have it publicly known that you took the money?" The instant reply was, "Of course not!" I asked, "Why not?" "Because," he said, "it would create too much of a scandal."

To the further inquiry, "Would you take it if it were never known?" he said, "I don't feel sure, but I am inclined to think so."

To the second question, "If the Louisiana Lottery were still running, would you publicly accept a gift from its directors to endow a chair for ethical instruction?" he said: "That kind of thing used to be done, but I question if it would be wise to do it now. No, I don't think I should take that money under those conditions." The following positions are here to be noted:—

- (a) I will take gifts from any source.
- (b) From *some* sources I will not take money.
- (c) The reason why I will refuse it is that it will create a moral scandal.
- (d) Money that was once accepted without offence (as from lotteries) has now become at least very questionable.

It is to be noted further that in this case, as in most of the others, the problem was so new that it had never been fairly faced. Almost all those interviewed began by extemporizing opinions. In every case but one they instantly gave up their first confident assertion,—I would take all moneys for educational uses.

From that point began the process of casuistry and qualification.

It appeared at once that there is here an ethical question;

that responsible people do draw a line, and must draw it according to some principle, if it can be found.

That some religious bodies refuse to do what they once gladly did—build churches from the receipts of an organized lottery—is generally thought to indicate a more sensitive and a sounder morality. I suppose this to be the reason why so many who are still sceptical about any principle in the matter are still "rejoiced that the issue has risen."

I next asked a writer and professor in Columbia University if he would take all moneys. He said, "As long as I was sane." To the first test, as applied above, he replied at once, "No, I would not!" "But why?" "It would make too much of a row." I asked him if he would take a gift from Richard Croker to found a chapel. He said, "No, and for the same reason that it, too, would make too much of a row." I asked if he would take a gift from Mr. Croker to found a school for veterinary science. "Without a question" he would do that, because "it wouldn't make a row." But why should the healing of horse-flesh with Croker coins be without offence, while the devotion of those coins to a house of prayer came to him as a kind of moral shock? Probably because the use of such money for the chapel in a town where political debauchery had enriched him raised an incongruity so sharp as to carry ridicule and stigma through the simple face of association. If the popular belief about a man and his actions is clear enough and convinced enough, the relation between it and any sort of consecrated end associated with him may have the supremest practical consequence. The holy places of the world have been associated (at least in belief) with holy men, or, with what served quite as well, with wicked men who repented and became holy. By as much as the moral imagination depends for its quickening on this association, by so much has this question a purely practical consequence. Now that the evidence on the character of J. Henry Addicks is so fully in, what would be thought of a board of management who should solicit or accept his money for the founding of an institution to teach politics, calling it, let us say, "The Addicks School of Civic Science"? There is not a cynic in the land that would not hold his sides with laughter.

When that desperate English swindler, Hooley, presented

his church with a costly communion service, his character was not generally known. When it was known, and a dispute arose as to whether the Hooley gift should be retained for the most solemn religious rite of the church, do we honor more those who would refuse or those who would keep it? The case here is of the simplest, as there was no question about the facts or that he was trying to buy his way into social favor.

Jay Gould many years ago gave some thirty very precious acres on the Potomac to round out and complete the area surrounding Washington's tomb. I asked one of the more important officials having to do with the gift what would have been done if Mr. Gould had made it a condition that a prominent tablet be there erected, calling public attention in perpetuity to him as the donor. "I doubt," was the reply, "if we should have accepted it." When I asked the reason, the reply was, "Well, we should have shrunk from associating that tablet so prominently with the memory of George Washington."

I have many other illustrations, but these are enough to show how many people feel, so far as the issues can be made clear.

When Henry Clay publicly cut Aaron Burr, he had become convinced that Burr was a scamp. When Herbert Spencer refused to shake hands with Baron Grant, he had become convinced that this millionaire's property had been won in ways that should have every sort of conspicuous condemnation that could be turned against them.

Good men criticised Mr. Spencer's act on the ground that he could not have known accurately enough what the business methods of Baron Grant were.

This seems to me the nicest and the most difficult test in the discussion.

I have tried to show through illustrations that men of sensitive conscience and clear heads do now act on a certain principle.

It is already roughly indicated in my examples. There is great force in the objection of committees that they are not constituted or equipped for inquisitorial research into obscure mercantile transactions. If this could really be done, and done thoroughly in all cases, most clergymen's salaries—in-

deed, portions of all our incomes—would make a sorry showing. Yet many of us know clergymen, lawyers, trustees, who in specific cases refuse to be paid money from certain sources. I have heard a very rich man, who had dealings with one of our magnates, say, "I can't avoid business relations with him, but I would never take a cent of his money for any educational object in which I am interested."

In two instances I have known university trustees to discuss very hotly whether certain proposed gifts should be accepted. In both cases they were accepted, but the ground on which the protests were made was the character of the giver. I asked one of these trustees who voted to take the money if he would vote to take Addicks's money." "Not a penny of it," he replied, "because there is no doubt in his case. I would not have the Addicks stamp on anything that I valued."

May we then say that, at the point or points where the testimony is so open and convincing that your committee can weigh it and apply moral standards, the problem so far gets its solution?

If the bringer of gifts is so incontestably and so conspicuously convicted that his methods and character are an affront to the community, the way for rejection is clear.

This was the one implication true of every case and of every illustration I could collect. If it is said that this does not assist us very much in the really perplexing cases, I should think that very difficulty an advantage. It may help to guard us a little from that easiest sort of injustice; namely, a too hasty moral judgment on partial doubtful and shadowy evidence.

## 2. THE SCRUTINY OF GIFTS FOR RELIGIOUS PURPOSES.

BY REV. DANIEL EVANS, CAMBRIDGE, MASS.

We must first get the true conception of the Church before we can answer properly the question as to its duty in scrutinizing gifts. If the Church is regarded primarily as an institution founded in the interests of ritual, its main concern will then be the observance of the ceremonies of religion. Or, if the Church is regarded primarily as an institution founded in the interests of dogma, its main concern will naturally be the official definition of the theoretical truths of religion and their inculcation in the minds of the faithful and their defence against assaults of heretics and unbelievers. If, however, the Church is defined as an institution of spiritual religion and for social righteousness, then great moral questions will receive its earnest and honest attention. It may have a simple or elaborate ritual, it may place much or little emphasis upon dogma; but it must have the consciousness of its spiritual relation to the living God. It must think His thoughts after Him, feel the same deep love, and be moved by the same mighty motives. It must gird up its loins and light its lamp for the sublime task of realizing His purpose. Its mission will be to make the will of God prevail upon the earth, in the heart of the individual, in all personal relations, and in the affairs of business and the State. Since this is God's world, it is the subject of redemption, the theatre for the play of spiritual forces, the sphere in which righteousness must be established.

The Church has created various agencies through which it does charitable, educational, and missionary work. These agencies have special tasks, but the justification of their existence and the appeal for their support are based upon their religious character. Their purposes are claimed to be distinctively Christian, and their methods and practices are meant to be instances and illustrations of the practicability

of social righteousness. Like the Christian man, they confess their faith in the religion of Christ, and profess to live for it and by it. They are, therefore, according to their own claim, not to be classed with secular institutions of society. They are practical agencies for the propaganda of the Christian faith and morality. They have their share in the teaching function of the Church.

The Church, with all these agencies for practical Christian work, is dependent for its support upon the gifts of the people. It is the marvel of men who visit our shores from lands where the State supports the Church, to learn that millions of dollars annually flow into the treasury of our free Church. Some give out of their poverty, others out of their competency, and not a few out of their honest wealth.

No one thinks there is need of scrutinizing the great mass of these gifts to the Church. The vast majority of its supporters are known to be honest and upright people; and, where nothing to the contrary is known of others, the wise Christian course to pursue is to regard them as honest and upright, too. And, if some bad people are donors, their gifts do not harm the Church if they themselves are not known to the Church nor to the public. But, if some person in the community whose calling is bad or whose business methods are known to be wicked should bring his gifts, then it would be the duty of the local church to scrutinize them, and to take into consideration the effect upon its own life and the moral welfare of the community.

The pressing necessity of scrutiny on the part of the Church arises when men prominently identified with large corporations conspicuous for their predatory methods proffer their gifts. The dominant force in this land to-day is the commercial, and the immense industrial development of recent years has created new problems which require for their solution the greatest wisdom and courage. Such immense power in a comparatively few hands is but a new form of the old absolutism which we have known in Church and State. Even with good men with the best of intentions, such power has proved dangerous; and society has created check after check upon its use. Under the best conditions such power requires all possible restraint for its rightful use; and, where these best

conditions do not obtain, the methods and practices of men with vast power has been most dangerous and damaging.

And this is what now confronts us in this country. There is such a colossal accumulation of wealth in a few hands and such terrific power concentrated in certain large corporations of an evil type as should alarm all serious citizens. Some of these corporations by their evil methods are a menace to honest business interests. They corrupt our politics, bribe the men who make and those who execute our laws: they threaten the very foundations of our national life and all our high moral interests. The grave question before the American people, the government, and the Church is whether we can bring to bear upon these men and their corporations such a strong moral public opinion and power as shall safeguard all that we hold dear.

This is the great social reason for the duty of discrimination upon the part of the Church in soliciting or receiving gifts from men whose methods and practices are known to be, or are charged with being, morally iniquitous and socially destructive.

The duty of discrimination at the lower end of the scale is recognized by most men. The man convicted by the courts is discriminated against. In this case the Church can point to the records of the court, and hide behind them in safety. There will, of course, be little call for such discrimination; for, if the convicted criminal brings them, it will be because he has repented, and seeks to make reparation, and reparation is a proof of conversion. Some maintain the duty of discrimination must end with the convicted criminal.

If the Church were only a legal corporation, and only stood in a legal relation to the community, it would, of course, have to wait for the verdict of the court before it could pass judgment on the business methods and practices of men; but the Church is more than a legal corporation, and stands in quite a different relation to the community. The Church is a moral institution and the educator of the people. The court deals with conduct in relation to legal statutes: the Church deals with conduct in relation to moral laws. The legal statute and the moral law are rarely equal. The legal statute is always higher than the conduct of the criminal, and it is frequently



in advance of many unconvicted criminals of respectable circles; but it is seldom, if ever, as high as the moral law nor as broad in the area it covers. Sometimes it is positively immoral and obstructive of social progress. A man may sometimes break great moral laws, and yet never come before the courts. A man may, on occasion, break the law of the State, fulfil thereby the higher law of life, and his crime make for social and moral progress. The men who doomed Socrates to death acted within the law; but Socrates' conduct was right, and made for an ethical advance. The men who crucified Jesus were not convicted by the courts, in spite of the fact that they put to death the one absolute moralist of history.

Large areas of life are not covered by law. In this larger moral region is the place for the play of moral judgment. The plain man with unsophisticated conscience passes judgment on specific offences and offenders. The good citizen is called upon to create right moral opinion. The good government leagues discriminate against certain candidates as morally unfit to represent the town or State. The moral judgment of large numbers of men in a given community or through the country against a certain man, when based upon facts and records, is a doom as damning as the verdict of a court.

When such a moral judgment is passed upon a man, the Church must scrutinize his gifts. Current rumor against a man may not be sufficient reason for the Church to pass judgment upon him, yet it may be reason enough for the Church to hesitate in soliciting his gifts, to pause before seeking his fellowship in work, and to take wise counsel of discretion before entering into public relations of honor with him. When a man's conduct has become a public scandal, and he is openly charged by responsible parties in respectable papers and journals, and when the challenge is thrown down to proceed at law against the parties making the charges, and he does not earnestly and honestly seek to clear himself for the sake of his own honor and the honor of the institution to which he offers his gifts, it is then the imperative duty of the Church to pay attention to the moral judgment of the community.

Still further, the Church must not only heed the moral judgment of responsible people of the community, but it must

itself perform the offices of moral judge. Because the Church does not have the legal machinery of the court, it is not excused nor estopped from passing judgment. While its primary office is not to accumulate evidence, yet, when men and women in the community who are devoted to truth and righteousness and to social and national welfare gather the facts in the case and furnish the data, then the Church as a moral institution must evaluate the data from the ethical point of view. The Church, by the very nature of its life and mission, must judge principles and policies, character and conduct, individuals and societies which are not yet condemned by the courts nor even by the general public. And to say that the Church should refuse to judge on the ground that we are all "miserable sinners" is to offer an excuse which, if carried to its logical conclusion, would, as Miss Ida Tarbell says, "leave our business men weeping on one another's shoulders over human frailty, while they picked one another's pockets." When, therefore, gifts are brought to it by men whose methods and practices are morally iniquitous and socially destructive, the duty of discrimination in these specific cases is imperative. It must not suffer itself to be brought into relations of patronage, of honor, or fellowship in work with such persons. Since the Church and these men represent opposing interests, the Church should neither solicit nor accept their gifts, and for the following reasons:—

*First*, for the sake of the kingdom of God. The Church has no reason for existence apart from the purpose of God to establish righteousness on the earth. The claim of the Church on the souls of men and on the moral forces of society for allegiance and co-operation grows out of the fact that it stands as the organ for the proclamation of this purpose, and is the highest spiritual agency for its realization in the lives of men. This purpose clearly seen and deeply felt gave birth to the Church, and has perpetuated it through the centuries. It must, therefore, enter into no relation of dependence or honor that will hinder the realization of this divine purpose. The kingdom of God must ever have the right of way, and for its sake the Church must keep itself free from such men, and independent of their gifts.

*Second*, again, the Church must keep itself free from such

relations for its own sake. It has its own reputation to sustain before the public, and its own moral and spiritual integrity to preserve. It must not, therefore, subject itself to the charge of ignoring the moral issues involved in maintaining relations of honor with men identified with and responsible for great commercial evils. Every man is careful that his conduct may not reflect upon his honor. The Church's honor is as sacred as that of the individual, and the safe-guarding of it should be one of the prime considerations in determining all its relations. The Church, like Cæsar's wife, must be above suspicion.

The Church has something more important to maintain than its reputation. It must preserve its own moral and spiritual integrity. The eye must be single, that the whole body may be full of light. The spiritual insight of the Church into the everlasting principles of the moral life must be cherished above all things. Of nothing should it stand in so great fear as moral blindness, and yet this is the serious danger that threatens it and all institutions dependent upon the favors of men who acquire their wealth in questionable ways. We can see the subtle process of corruption going on before our eyes. Silence falls on the lips that should speak the scathing words of rebuke against triumphant wrong. Soon, however, silence gives way to apology, apology leads to defence, and defence ends in eulogy. In the process of mental degeneration the higher centres of the brain give way first, and the man is left with physical powers uncontrolled by moral faculties. The higher centres in the life of the Church are in grave danger of degeneration from its relation with and defence of men with bad records in business. And, when there is such decay, the evil forces of society will act without strong moral control.

*Third*, for the sake of other moral forces working for social righteousness. The moral forces of society are arraying themselves in battle line against the destructive powers in modern civilization. The honest men in business feel there is something of more value than money; the students of social subjects are forced to become champions of social righteousness; the best citizens of corrupt municipalities are organizing to make them clean: the patriots the country over are aroused

against the forces of evil that threaten the life of the nation. These social servants are organized, and strive in their corporate capacity to win the battle for righteousness. These men look to the Church for inspiration and leadership. They have been taught the divine purpose of the Church, and they have heard its proud claims to moral leadership. They, therefore, have a right to expect that it will help and not hinder, take the lead and not straggle at the rear, carry the colors and not prove cowardly nor traitorous.

One of the most serious dangers facing the Church to-day is the danger that the moral forces of society may ignore it or turn in revulsion from it or antagonize it for its betrayal of the cause of moral progress.

*Fourth*, for the sake of the great masses who suffer most from the iniquitous methods and oppressive practices of these men. There is an unrest in the people that is ominous. They have a keen sense of the wrongs done them. They are in no mood to be trifled with. They sorely need guidance and moralization, but their first need is to have their deep desires and sense of righteousness understood and expressed by the Church. At present they are not in friendly relations with the Church. They do not seek its services nor have much faith in it. The serious indictment against the modern Church is that it is not democratic: it is not the Church of the people. It is strange that the Church of the great workingman has so few workingmen in it.

One of the great tasks of the Church in this twentieth century is to win the respect and the loyalty of the people. This will be the century of the people. They will rise to power in city, State, and nation. They need the Church, and the Church needs them; but they will never come to the Church unless it is free from the relations of honor with commercial criminals, and independent of the gifts wrung out of the sweat of their brow, the tears of their eyes, and the blood of their hearts.

*Fifth*, for the man's own sake whose methods and practices are iniquitous, the Church needs to be independent of his patronage. The apostolic aim was to seek the man rather than his money. "We seek not yours, but you," said Saint Paul. This must be our primary aim to-day.

There is no person in greater moral danger than this man.

He uses oppressive methods to gain his ends, and justifies himself on the ground that business is business, and cannot be conducted on moral principles. Having acquired much money, he is besought on every hand with appeals for help. He is courted for his money, and given such social attention that he comes to feel that he is indispensable to the higher interests of society. He goes to his Church, and receives such treatment there that he cannot fail to feel that he is not only a great business man, but he is also a very good man. He is given a prominent official position; he becomes a teacher of a Bible class; he is joyfully received by all the saints; he receives ecclesiastical indorsement by his church membership and glorification in the religious journal. The one ethical truth he hears and receives is that "charity covers a multitude of sins." There would seem to be a conspiracy of the worst and the best elements of society to hide the man from himself. Now, if this universe is righteous, if the teachings of Jesus are true, then there is no man in the whole mass of men who more needs the searching truths of the gospel than he. The Church should make him look into his soul, face his righteous God, and confront his wronged brother. In the Church, as nowhere else, he should be made to realize that a spiritual religion necessitates social righteousness as its true ethical expression.

### 3. THE SCRUTINY OF GIFTS FOR EDUCATIONAL AND PHILANTHROPIC PURPOSES.

BY PROFESSOR F. SPENCER BALDWIN, OF BOSTON UNIVERSITY.

It would be superfluous to dwell on the importance of the subject of this discussion. The question of the relation of colleges, churches, and charities toward wealth that has been won by methods which the moral sense of the community cannot approve is generally recognized to be one of the most vital problems in social ethics now before the American people. On the one hand, wealth is being accumulated in vast masses at a rate never before paralleled in the world's history, and sometimes by means that are morally indefensible. On the other hand, enormous sums are being given for educational and philanthropic purposes, often upon conditions that associate the name of the donor with that of the beneficiary agency. Unless one be prepared to take the extreme position that the source of a benefaction is a matter of no moment, and that every offer of money should be accepted without scrutiny, there arises the perplexing question as to the circumstances under which it may be incumbent on an institution, organization, or society to decline a gift.

The extreme position just mentioned is precisely the one taken by the Prudential Committee of the American Board of Foreign Missions in the statement issued in reply to the protests against its action in accepting the recent \$100,000 gift. This attitude is approved by many preachers, editors, and teachers, who have expressed themselves in this issue. The first point to be determined, then, in considering the question before us is whether any scrutiny of gifts is ever called for.

The Prudential Committee of the American Board holds that the responsibility of the recipient of a gift begins only with its acceptance; that the responsibility does not reach back to the sources of acquisition. This sweeping proposition is not tenable. The person who knowingly receives stolen goods certainly becomes a partner in the theft. Similarly,

the person who knowingly accepts money coming from the current proceeds of a business of an immoral character or a business conducted by immoral methods incurs a responsibility for the existence or the continuance of such business or such methods. The acceptance of a gift clearly involves a measure of responsibility for the mode by which the money was acquired by the donor. The proposition that no discrimination in relation to gifts should be attempted by colleges, churches, and charities flies straight in the face of the awakened social conscience of the present day. It runs directly counter to the ethical impulse that has prompted modern movements for social betterment. The Consumers' League, for example, is founded on the principle that the purchaser of goods bears a responsibility for the conditions under which they are made and sold. In an analogous way the taker of money becomes responsible for the ways and means by which it was accumulated. To deny this is to take lower moral ground than that occupied by workers for social reform in many fields.

Conspicuous among those who defend the policy of indiscriminate hospitality to givers is Professor J. B. Clark, of Columbia University. In a paper on "Gifts and the Moral Law," Professor Clark argues that benevolent agencies should take without discrimination all proffered gifts. He recognizes, to be sure, that there is a danger to the Church in accepting money from men whose business methods are known to be dishonest. He writes: "A church that cannot meet its expenses without the aid of wealthy wrong-doers is not in a position to uphold the highest standard of business morality or to help effectively in the warfare against corruption. It is here that the Church encounters its most serious danger, for here it gives to unworthy men certificates of character. It condones the evil which the world is contending against, paralyzes its own fighting arm, and makes it difficult to give aid to the forces of righteousness. At bottom, the spirit of the Church is sound; but there is danger that in some of its acts it may come to the help of the mighty against the Lord and against the people." But Professor Clark holds that this danger, which is great in the case of the Church, "is less in the case of benevolent societies." This is because the latter issue no certificates of

character for donors. "If any such body," he observes, "indorses a beneficiary at all, it does it by implication only, and that implication depends on the public understanding of what the acceptance of a gift means."

The distinction which Professor Clark here draws between the Church and benevolent agencies in relation to gifts looks like an over-refinement of reasoning. If, as Professor Clark appears to consider, it is incumbent on the Church to keep clear of entangling alliances with "the powers that prey," why is not this duty equally urgent in the case of all the organized forces of education and philanthropy? If there is danger to be apprehended from this source in the one case, there would appear also to be equal danger in the other.

Professor Clark's contention, already noted, is that the danger is less in the case of benevolent agencies than in the case of the Church, because the former issue no certificates of character to donors. But is not the acceptance of a gift generally interpreted by the public as a moral indorsement of the donor? And is it possible to prevent such an interpretation from being placed upon acceptance, even if the beneficiary disclaims intention of passing judgment on the donor? Is it possible for benevolent societies to maintain this negative, non-committal relation to donors, so that the acceptance of money will carry with it no hint of approval in its effect on the public mind? Professor Clark holds that it is possible so long as benevolent agencies take freely and unquestioningly every gift that is offered. It is chiefly for this reason, indeed, that he advocates a policy of non-discrimination on the part of benevolent agencies in reference to gifts. He advocates this policy, namely, on the ground that, if discrimination were practised, and some gifts were rejected, the acceptance of a gift would then necessarily imply certification of the donor's character, whereas at present acceptance carries no such implication. He formulates this unique argument as follows: "If we enjoin on our agents of benevolence that they take no gifts from dishonest men, and if they undertake to carry out the injunction, then every gift which they do accept certifies that the donor is, to the best of their belief, honest. Accepting such a gift at present does not involve this moral indorsement, but we can make the taking of all future gifts



have exactly that effect by enjoining on our agents to touch no dollar that comes from a source known or believed to be tainted."

This sounds judicial and impressive, but let us probe the argument. It is contended that, if benevolent agencies follow a uniform rule of taking every gift offered, acceptance cannot in any case be construed as an indorsement of the donor. But may not refusal to discriminate under certain circumstances be in effect an act of discrimination? To accept money from a man whose business methods are under criticism implies support of that individual against the charges brought by his critics. As President Tucker of Dartmouth College points out in his admirably judicial letter to the Prudential Committee: "When the business methods of any man or of any corporation are under public discussion, and certainly if under authorized investigation, it is a discrimination in favor of methods at issue to accept a gift from such a source as freely as from other sources." The acceptance of a gift from a man notoriously and flagrantly corrupt, who stands as the typical incarnation of the insidious forces of business immorality, appears to place him on the same level of respectability with other donors. This is discrimination of the worst sort. "There is no greater inequality," said an Austrian economist, "than the equal treatment of unequals."

An additional reason advanced by Professor Clark in favor of the general acceptance of gifts is that a policy of scrutiny and rejection would cripple the finances of benevolent agencies. "One thing," he declares, "is clear; namely, that thousands of gifts must be refused, the societies' treasuries must be depleted, and the work for the people must be left largely undone, or such gifts must be generally accepted." This consideration carries little weight. A full treasury is not the *summum bonum* of educational and philanthropic endeavor. It is far better that missions and charities and even colleges and churches should languish for lack of funds than that corrupt practices should go unrebuked. Indeed, Professor Clark himself admits that "abating a jot of the condemnation of evil would do more harm than any number of benevolent societies could counteract." Against the grave danger to moral standards to be apprehended from promiscuous gift-

taking, the mere cash consideration weighs light in the balance.

The final argument brought forward by Professor Clark in support of his proposition is that the policy of discrimination would prevent the dishonest rich from distributing their ill-gotten gains. He says: "The serious matter is that, if such a rule were universally acted on, the bad rich men would find all available avenues of beneficence closed. Though they are under a positive obligation to undo an evil work, they would find themselves unable to fulfil the obligation, and forced to use their wealth for themselves or for unscrupulous sharers." This argument, like the preceding, makes its appeal to the public appetite for money. As a partial answer to this objection, it may be pointed out that the opportunity of beneficence would not be closed to the bad rich man who desired to give in a spirit of restitution and repentance, even if the most rigid policy of scrutiny and rejection were adopted by benevolent agencies. Gifts offered in that spirit should always be accepted. No one proposes to stop the giving of "conscience money." It is only "hush money" that is to be tabooed. The policy of discrimination would simply prevent the bad rich man from giving in the wrong way,—harmful to himself, the beneficiary, and the community, while leaving him perfect freedom to give in the right way.

The various arguments advanced in favor of this indiscriminate acceptance of gifts for educational and philanthropic purposes are found upon examination to be inconclusive. On the other hand, there are strong reasons in favor of exercising scrutiny. In the first place, an educational or philanthropic agency is bound, at the least, to take into consideration the conditions attached to a gift. This point has been well enforced by President Pritchett of the Institute of Technology, as follows: "Suppose that William M. Tweed, in the heyday of his career, had come to the authorities of Columbia, and said, 'Here is a million dollars to found a school of political science which is to bear my name.' Columbia could not have accepted that gift and maintained its moral leadership.

"In other words, there is a line of demarcation, not always hard to distinguish, which separates the gift which may be accepted from that which may not; but this line cannot be

drawn by inquiry into the origin of these gifts, but is rather revealed by the conditions which are attached to them. When the acceptance of a gift carries with it a tacit excuse for past misdeeds, when it involves the placing of a name which stands for violated law and disregard of the rights of men side by side with the names of the great and of the unselfish, when it implies the recognition of a false measure of success,—a thing most common in our American life,—then the college which accepts such a gift suffers in its moral leadership. Its action goes far to confuse in the minds of men the distinction between right and wrong, and between selfish and unselfish public policy, or, as George Eliot so aptly expressed it, 'Such action tends to debase the moral currency.'"

The fact is not to be overlooked that the munificence of millionaires is sometimes merely a belated bid for ante-mortem or post-mortem respectability. The man who has played the pirate in his business dealings tries to gild his tarnished reputation by sharing his plunder with some college, church or charity, on condition that his name be associated in some way with the beneficiary institution. No self-respecting official can afford to become a party to a whitewashing transaction of this nature. Gifts offered on such terms should be declined outright.

Moreover, even when a gift is made unconditionally, there may be circumstances which make it morally imperative to refuse the money. Gifts offered by men who have amassed fortunes by illegal, immoral, or dishonorable methods ought, as a rule, to be declined. An exception should, of course, be made in the case of a gift offered avowedly as "conscience money." There appears to be no valid objection, moreover, to the acceptance of money, however acquired, when the gift is made after the death of the person who accumulated it, and when no offensive conditions are attached. The thing to be avoided is participation in current gains won by reprehensible dealing.

The obvious danger in accepting money from men whose business methods cannot be approved is that it tends to silence criticism of their practices. The beneficiary cannot criticise his benefactor with good grace. As Mr. Edwin D. Mead has put it, no one ought to "castigate the man whose money is in

his pocket and whose bread is in his mouth." In the long run, doubtless, the forces of public opinion and academic freedom in this country will prove too mighty to be controlled by any man or any group of men. But the fact cannot be blinked that the tendency of the indiscriminate taking of gifts by educational and philanthropic institutions is to obstruct the play of these forces for the time being. Professor John A. Hobson has well said: "Those engaged in private charities know the danger of promiscuous giving. What about the public? Has it no character to lose? . . . Without proper discrimination the charity of millionaires is proving dangerous. What is most needed for social enlightenment is a flood of free daylight upon the arts of human knowledge related to the most vital issues of reform. Is the millionaire likely to supply them in his gifts toward higher education? Will he employ his millions in cutting down the branch on which he sits? It is not the dead hand, but living interests that should wield the education for the masses."

In this connection Professor Clark, while recognizing that "the imperative need of fighting against corruption in business is the first and most important fact in the situation," argues, nevertheless, that it is possible to combine a spirit of energetic opposition to corruption with the policy of indiscriminate acceptance of gifts. The programme which he recommends is this: "A society in its corporate capacity may accept the gift, and officers of the society may be agents for receiving it. Every officer or member must preserve his freedom as a citizen, and the vigor of his opposition to iniquity in business." But is this combination a possible one? If the acceptance of tainted money were accompanied by plain-spoken condemnation of the methods of its acquisition, then the action might perhaps be defended. But courtesy forbids the recipients to take this course. They are driven to shame-faced silence or labored sophistry. Thus we have the spectacle of professed moral leaders raising their voices to confuse ethical standards and obscure moral issues.

The Church, in particular, can ill afford at the present time to take any action that would weaken its influence. There is a wide-spread feeling among working-people that the Church is unduly subservient to capitalistic control, and complacently

tolerant of business chicanery. The ready acceptance of money alleged to be "tainted" will not tend to allay this distrust.

The most serious evils that threaten American civilization at the present time spring from immoral acquisition and corrupt employment of wealth. A low standard of commercial and political morality is undermining the Puritan ideals of character and citizenship. Against the forces that are making for corruption the college and the Church must stand firm as bulwarks of defence. Their high duty is thus eloquently set forth by Mr. Mead: "At a time when in so many provinces of our American life the love of money and the power of money are roots of evil as never before, it is doubly incumbent upon the Church and the school to construe their offices heroically, to see to it that they do not become contaminated with base bribes, nor let the taint of materialism or a false commercialism blight them and make them centres of apology, of confusion, and compliance instead of nurseries of idealism, of purity, severity, and truth."

These considerations certainly justify a policy of cautious deliberation on the part of officers of institutions in reference to gifts. In every case the source of the wealth should be scrutinized carefully,—the gift horse should be looked squarely in the mouth. It is better for an institution to refuse millions than to compromise its standing in the slightest degree. The occasional refusal of money coming from a dubious source would be a most salutary discipline. It would recall us to the truth that the most precious possessions of a people are not the material things that can be bought with money, but the unpurchasable things of the spirit.

#### IV. DEPARTMENT OF EDUCATION.

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##### I. RECENT OBSERVATIONS IN PATHOLOGICAL PSYCHOLOGY.

BY G. STANLEY HALL, LL.D., PRESIDENT OF CLARKE  
UNIVERSITY.

[Read Saturday morning, May 13.]

Many diseases (the English Pharmacological Society catalogued over seven hundred) have always preyed on the body, and one of the noblest and most influential of all professions has always been that of healer. The mind, too, has its own special pathology. More recently crime or moral aberrations have become an academic department, and have a copious literature of their own. Pedagogical pathology is barely ten years old. It now has its journals, its experts, and the faults of children are catalogued in dictionaries and prescribed for in articles, in France even treated by hypnotism. Last comes the pathology of religion, which, we are now coming to understand, like everything else, has diseases of its own among both primitive and cultured people; and one of the most interesting of the promises of the future is that we shall have established norms to distinguish what is healthful and what is morbid in religious consciousness and life. The pathology of teachers and teaching is a still newer topic, to a very few aspects of which I have the honor to invite your attention this morning. I am already fully persuaded that this theme, too, has a great future, and that the next decade will witness the development of a new chapter in education devoted to the diseases of the body and mind of male and female teachers and also of educational systems.

I. Copious as is the literature on the health of pupils, almost nothing has yet been done in this country in studying

the health of teachers; and in Europe many problems in this field are unsettled. A teacher's work is extremely monotonous, and allows little change for the ups and downs of ill-health. No school ventilation is adequate; and teachers are not only exposed to impure air, loaded with chalk and other dust, but to all the infections in the community. The diseases most common among teachers are nerve strain and tire, colds, disorders of the throat and lungs, hemorrhoids, and troubles of the lower part of the trunk. Anæmia and enlargement of the heart are thought by Wehmer to be common. In Germany, although the teachers at the outset of their career undergo physical examination, which weeds out all the weak, it has been found that up to the age of forty deaths are more frequent among them than in the average of the community, and that they die earlier on the average down the grades, professors outliving primary teachers, while in the country, with small pay and more exposure, the mortality is greater. Galton found that out of 116 English teachers 23 had suffered a serious breakdown, from which 21 of these thought they had never quite recovered. Those who have studied the subject most thoroughly lay great stress upon the restricted expression of individuality which the modern methods of the public school, with its supervision and incessant prescription, afford. This, it is often said, damps, if it does not destroy, the zest that every one ought to feel in their calling, predisposes to a feeling of tedium, if not to depression, nervous irritability, and sometimes even hypochondria. An American physician, who has a large practice among female teachers of one of our large cities, tells me that they are, in some respects, a class by themselves, their work predisposing them to certain diatheses and to wearing themselves out before their time. All insist that the long vacation is none too long for teachers, that evenings and nights should be kept free, and that other occupations and all unnecessary work should be indulged in with moderation always, and very tentatively in the first years of teaching, before one learns to know the subtle line, so easily crossed, between normal income and output of energy and over-drawing one's energies.

II. Few who enter the service of the public school expect to remain for life. Their work is, therefore, if not a makeshift,

usually more or less temporary and provisional. But a small per cent. in the country at large have any professional preparation, and the salary, while often very attractive to those who have debts to pay for their education or desire to lay by something for other fields of work, is not satisfactory as a permanency. Nearly 100,000 teachers will leave the profession this year. When times are hard, the supply of male teachers increases; and, when business flourishes, it declines again. Many of the ablest men in the country have served a brief apprenticeship in the teaching profession. Some of them have done something to elevate it, but would of course have done far more, had they remained in it. No one would claim that it is generally the worst who drop out. No, often it is the best. Were it the worst only who drop out, selective influences would always steadily improve the quality of the teaching force. Unfortunately, despite many striking exceptions which will recur to every mind, on the whole, those who remain do so not because they love the work supremely, but because opportunities to better their condition do not open to them. In grammar and even high-school grades very few indeed plan their work as a life career. Even promotions in grade or pay are not always made on merit, and, in the rare instances where a new superintendent or board has attempted to drop inefficient or superannuated teachers, their friends and the public rally to their support. In some communities there is thus a confessed tendency for the corps of teachers to degenerate in quality. Few who are found in the ranks at the age of fifty would not have been shocked and depressed, had they been condemned to this fate at the age of twenty-five. Some, especially men, who enter the profession with enthusiasm, are disenchanted because they find so little independence, and soon realize that in the question of methods, course of study, text-books, discipline, no provision is made to submit these vital matters to those most concerned in them; namely, the teachers themselves. In our system it is ever harder for a self-respecting and able man to adjust himself to the dependent conditions of actual teaching. Whenever the question of permanence in office and of pensions is raised, this problem of deterioration always looms up in the background, even though it is rarely named. In the grades the teacher must obey the



principal and superintendent. In the high school he must follow the prescriptions of the college. Moreover, teachers' organizations, which were begun by Horace Mann and have been such a blessing, have now reached the point where certain dangers threaten. Sometimes weak officials of the craft, or questionable methods, have been indirectly sanctioned by the authority of teachers' organizations; and last summer Miss M. A. Haley advocates that teachers should organize on the principle of labor unions to demand higher wages and better conditions generally. The major premise of this argument was that the status and pay of teachers was proportionately less than it was a decade ago. Now one great vice of trades-unions is that they seek to force their services and their wage scales upon employers, and thus, in a large degree, remove their members from the necessity of improving the quality and quantity of their work. This latter is the wholesome and legitimate means of advancement; and, if solidarity reduces the force of this motive, it so far tends to degrade the vocation. There is no triter commonplace than that teaching ought to rank with the learned professions; but there are certainly now strong tendencies to make it a trade guild, the members of which organize for mutual support, defence, advancement, and the protection of the unfit, and by so doing interfere with healthful selective influences which favor the survival of the best.

III. A pedagogue's position is unique. In his little domain he is monarch, wisest, best. His authority is in many ways final, and by constant association with children he is liable to grow complacent, even in ignorance, impatient of contradiction by his peers, and incapable of maintaining the eager, receptive attitude that studies and leans toward his superiors. Incessantly teaching his little stock of prepared knowledge, weighed, measured, calibrated to the youthful mind, grown from long use second nature to him, but ever new to successive classes, knowing already all that he must know to teach, he is liable to lose incentive to push on, to forget the sense of oppressive ignorance which always spurs on the scholar, until his mind becomes indurated and essentially indocile. After a dozen annual repetitions of his work he grows suspicious of change, for this would involve new labor, other matter or

methods, or both. It would involve a little sense of the fallibility of what he had done; and infallibility is too often the foible of the teacher's temperament. He is strong in defence of his own positions, and has become thereby impotent to adopt others. Ease, wont, and routine slowly close in upon his soul, and restrict the arrear of plasticity and vital growth. Once he was progressive, but he has stiffened in the mould. He is master of his own technique to such an extent that it has almost become automatic work; and why should he change to new things, when change involves both effort and uncertainty? In the ideal teacher, learning and giving out instruction ought to go hand in hand, and each is forever imperfect without the other, no matter how low the grade. But are teachers also students, and are they not constantly prone to mistake petty devices for great reforms, and do not slight variations of their old ways seem to them revolutions? There is a large body of text-books for every grade and department, which perhaps are compilations of compilations, hovering in a kind of limbo half-way between the childish comprehension and the original research of the great discoverer. This body of knowledge is repeated in scores of tomes for generations. I have traced specific illustrations in rhetorics, geographies, English books, and even some scientific text-books, back through a dozen, and in one case nearly three dozen, different authors. The writers of school text-books form a unique class of minds, hanging like Mohammed's coffin between the heaven of pure science and the earth of infants' minds, who have rarely studied the capacities, the nature, or needs of childhood, on the one hand, and, on the other, know little of the aspirations of the investigator who would add to the sum of human knowledge. This literature is too often the teacher's native breath and vital air. It is so copious that to know it well he has little time for anything else, and it is peculiarly calculated, with the small modicum of novelty in each author and text, to cause a sense of progress without its reality. How remote and belated some of our texts are is far better seen in some departments than in others. What, for instance, do our school geographies suggest of the modern work of the great geographical investigators? What do most normal texts on methods and the mind of man know of modern studies

in these fields? It has taken this country ten or fifteen years to move on from the effete principles of Sir William Hamilton to those only a few points less effete of Herbart, so that here the good average pedagogue is more than a generation behind.

IV. Closely connected with these is the danger of arrested mental growth to which the teacher is peculiarly exposed. Medical journals are largely devoted to the practical application of the very latest researches of the pathological laboratory, which every active physician desires and needs to know and to apply for all they are worth at once. Educational journals, on the other hand, are largely devoted to making up real or supposed arrears in the teacher's education, to news, gossip, or often trivialities and platitudes. How many teachers read above, and how many actually below their own level, which thus is a very dead one? In this day of enormous publication, when it never came so near being a sin to read the second best in any field, how do teachers stand? Very suggestive here is the fact that, while most large cities and many small ones have medical or perhaps law libraries, supported by the professions, where the latest and best publications can be promptly seen in convenient rooms, it is hard to find in this country such a teachers' library. When we look at the book-shelves in the office of a superintendent or principal or in the sanctum of a teacher, how few of the best do we find, and how many books branded with the mark of mediocrity and commonplace? In this respect only the clerical profession falls anywhere near the level of the average teacher. Indeed, one would be only a little less surprised to find a clergyman reading and using the results of the higher criticism and the latest epigraphical and archæological research than to find the teacher knowing and profiting by the best educational studies or even the new practical departures in other lands. In every city there are young teachers who pass through a period when they are flushed with enthusiasm for better things; but they are too apt to find that this work does not pay, and too soon do they profit by the example of indifference set by their elders and superiors. It is the iron law of every vocation of life that only the minimal effort actually necessary is usually put forth, and teaching is now so sheltered, protected, its members kept complacently

in countenance by their associates, that the hot struggle for existence that marks the commercial, industrial, and professional world is too often toned down to ineffective good wishes and ever-procrastinating resolves for the future.

V. Another group of morbid pedagogic symptoms that we see oftener in this country than on the Continent in Europe leads to a loss of the fine balance that should always be maintained between imparting knowledge to the children and getting it back from them. We too often tend to lapse to mere lesson setting and hearing. Just in proportion as a teacher is poorly equipped with knowledge does he or she tend to become a mere exacter of work, taking precious time to tell pupils what to do, and testing to see if they have done it. This is not teaching, but a device of ignorance, of laziness, physical weakness, or all combined. The true teacher teaches and reduces recitation to a minimum. Whoever has visited the best Continental schools, or studied comparatively such international educational expositions as those at St. Louis, must have been acutely impressed with the fact that we exhibit what the pupil does, Europe what the teacher does. Here he says, "Go, do this, and prove to me that you have done it." There he says: "Come, let us study together! I know and will inform, interest, and inspire you to go on." A little more pedagogic insight would make us ashamed of many of our wretched devices to conceal, excuse, or dignify our ignorance or save ourselves from work. We say, Let the pupil find the facts or draw the inferences for himself, and then he will be better able to investigate, will remember, and prize his mental possessions more. No, we should have investigated and learned and imparted. To allow, or even encourage, callow classes to debate, discuss, and weigh evidence, or to regurgitate the matter of the textbook, may flatter the pupils by the subtle suggestion that they can form opinions that merit the name. Instead of exercising power by their crude thoughtlets, *bombinantes in vacuo*, they are inclined to the sweet delusion that their mental emptiness is filled, and so grow complacent with their ignorance, and perhaps opinionated, and go to seed in a haze of finality. Some teachers have come to fear that the pupil in the high school is actually in danger of accumulating a mass of undigested, unsystematized knowledge, and perhaps to fancy

that this peril is awful and ever-impending. But have any of you ever seen a dangerous mass of knowledge in any youthful mind, unless in the memory-freak? And, even then, are we so oblivious to the laws of mental work and growth as to fancy that such a mass of erudition could exist in the mind without being assimilated in the child's manner, or, even if it were a vast floating mass, that our petty artificial devices of correlating, associating, and linking its parts can have any other possible effect than to prevent it from sinking deep into the soul by keeping it on the surface against the day of examination?

The child learns to know, not merely by doing, but also by hearing; and if the teacher's mind were charged to overflowing with knowledge in his own field, whether he had to tell it in the form of stories in the lower grades or to give it in rudimentary conversational form in the higher grades, he ought to be the living text-book, known and read of every pupil, and not a mere taskmaster. There are few more subtle balances than those between giving knowledge by and from the teacher, which is itself a passion and an inspiration, and the far lower but necessary work of finding by quizzes, recitations, and examinations whether it has found lodgment in the soul.

VI. When mental progress is rapid, as in all great eras and epochs, content dominates form. This was true in the Renaissance, in Gothic art, in Romanticism. Then comes a classic period when form and content are harmoniously wedded. Later comes the stage when form dominates over content, method over matter. Thus we see that the great creative period of Jewish history ended in the wretched letter-worship of the Kabbala and the Masoretic textualists. The Periclean age lapsed to that of the morosophs in the four great schools of copyists and commentators. The letter that kills takes the place of the spirit that gives life. Exactness and method rule over matter and content. Sturn taught Latin so well that in a few years his pupils would have been at home, had they been transported to ancient Rome. Now in a year and a half, four hours a week, we teach, on the average, less than four hundred Latin words, including those like *convenio*, to convene, *animal*, *imago*, which carry their own English equivalents. Perhaps the most pestilent and subtle of all forms of pedagogic

pathology is method-cult, which whips up two ounces of soap into a hogshhead of foam, as a mediæval barber's apprentice must be able to do before he could become a master workman. As the principal of an Ohio normal school said, Expertness in method makes knowledge less necessary. Instead of the thing itself it gives the explanation, until the pupil is prompted to cry out, as the little girl did: "O teacher, go on! I could understand everything you say and a hundred times more if you only wouldn't stop to explain your way." Verbalism, technique, rules, definitions, notes, preciseness, accuracy,—these have their place; but very little of them are for children. They give the conceit of knowledge without its substance. It is this that lies at the root of all the prejudice and suspicion, too often excessive, against normal schools and their work. It gives a tingling, then a corroding, self-consciousness of every item of knowledge. It inflates facts instead of condenses them, as pedagogy should do. It makes the way of knowledge hard. It is a stone when the children cry for bread. It is the way of self-complacency and death, and not the way of hunger, and a deepening sense of ignorance which marks true growth in knowledge. It is a wind-birth, and not true parturition of the soul. It checks and blights curiosity, the divinest thing in the intellect. It brings a unique school-bred fatigue, and smacks of the sad wisdom of senescence rather than of the eager hunger of young life for more and fuller knowledge.

VII. Mass education, or the grouping of children in grades, the accumulation of great numbers of them in school, the crowding of class-rooms, the overgrown size of some schools and even colleges and universities, which makes against individuality, has brought with it a growing demand for uniformity. This is indispensable where there must be more or less lock-step, where classes must be trained in platoons, all personal differences ignored, and the efforts of education addressed to the average pupil. Association is necessary. Mass training is economic, and in a republic where all must be educated we must accept the inevitable with what complacency we can, and make the best of it. But we cannot forget that able boys are retarded, that the development in Europe during the last few years of schools for backward children, and now of schools

for children with superior gifts, brings great relief and gain. The over-methodic teacher probably tends to benefit most the lower half of the class. A teacher full of knowledge and enthusiasm inevitably does best service for the upper half of the class. The aim should be to do the greatest good for the greatest amount of talent and ability, however distributed.

Along with this goes the calibration of knowledge into blocks, units, like bales of fodder,—six weeks of this, twelve of that, forty lessons here, sixty there, so many hours, and later weeks, years of preparation for college in each topic, so many experiments, uniformity of standards for promotion, for admission to college, etc. These shopworn and threadbare, monotonous, noetic goods, however they may appeal to girls, do not impress boys, who desire something on which to vent their own individuality. Their passion is not alone to know the same thing that every one else knows, but to know something that no one else knows. This is almost necessary as a sacred refuge of personality, but the uniformitarians will none of it. Their methods certainly increase the ease of the teacher's work and his efficiency; but do they not obliterate something that is more valuable yet in the pupil? Must knowledge, in order to be taught to large numbers, be standardized, like nails or flour, put up in text-book packages, and weighed and sold over the counter like very dry goods? All this is magnificent in a way, but it is not education, which is made of other stuff.

VIII. Many of the above agencies tend to precocity. This is a danger which we see most often in the only children of parents who are exceptionally solicitous for their welfare. Now that we understand its meaning, we see, alas! too many signs of it on all hands. The city of itself hastens development, so that the urban is a year or two in physical and mental development ahead of the rural child. It is ever harder for us in some respects to trust nature, but the school tends more and more to invade her domain, and to control and prescribe so that the child does not live out to the full all the early stages of his development as he should, and, therefore, his maturity is not complete and all-sided because premature. Some have thought the school at its best was liable to be pernicious be-

fore the age of twelve, but the growing burden of modern civilization sufficiently negates this view. In this country, however, life is harder on youth than any other the world has known. We are unhistoric in our very mode of thought, as well as in our origin. Our history does not invite to linger on the records of centuries of rich mythic story, which is so germane to the soul of youth. The present absorbs and dominates everything, and our young people can hardly wait to get into active life. Nothing is esoteric or reserved for maturity or old age. The bloom is rubbed off the naïve before it is time, and positions are sought and attained before full maturity has brought strength and ripeness to last in them. We are just beginning to learn that the nature of childhood must be studied and followed, or else we are liable to do harm as well as good, that the ways of the young are very different from those of the old. Just in proportion as this is coming to be understood we are slowly reconstructing, with the addition of many genetic elements, the methods and matter of grammar and even high-school teaching, and to recognize in more or less degree the great and all-dominant fact that the child does and forever must repeat the history of the race.

IX. The school is modelled on the home, and should have both male and female teachers. There is very general agreement that female teachers should predominate for the young, perhaps up to puberty. There is much agreement, though less unanimity, that in the earliest teens both boys and girls need as many male as female teachers; and there is much consensus of expert, though less of popular, opinion that in the college and university grades, or wherever specialties are taught, this is best, and should be mainly done by men. All over the world, however, educational systems are now being rapidly feminized. This process has gone much further in this country than any other. One writer estimates that 92 per cent. of our boys and girls satisfy the provisions of the law, and leave school forever without ever having come in contact with a male teacher. This is essentially wrong. If the process of the last fifteen years goes on, our public schools will be dames' schools, and the male teacher extinct as the dodo. No one has occasion to raise here any of the questions of the feminist, nor



should the problem be, as it is essentially, merely one of economy. Nature suggests the norm. The father has his functions with the children quite as much as the mother, different though they are; and most students of this question believe that it is, in part at least, from this disturbance of balance that so many boys fall out of the last grammar grades, and especially from the high school. I shall not attempt here to point out in detail, as I have sought to do elsewhere, the evils that seem to inhere in this tendency; but that it deserves to be enumerated among the pathological dangers of the times I cannot doubt.

Finally, in all this I have implied nothing as to where or when any of these evils exist or how great they are; but I only urge that each of these dangerous tendencies exists everywhere, and that all are inherent in the very nature of our modern educational system. On these scales those who know the conditions in any place, grade, or department can measure for themselves the degree of departure from the norm of pedagogic health. The enormous quantitative and numerical expansion of our schools has so absorbed attention and so gratified pride that qualitative standards have tended to be forgotten, until perhaps no human institution was ever in more crying need of criticism that is at once honest, friendly, and competent than is the public school; and none, from its very bigness, has ever grown more intolerant of criticism. The educational spokesman and promoters have so long felt it necessary to address voters and tax-payers, if not also the newspapers, that they are too unconscious of real perils and increasing evils. Often the most obscure and faltering critic is pilloried as an enemy of education because he felt that the welfare of the system needed some of the faithful wounds of a friend. Bigness itself brings many dangers; and was there ever any human institution that grew and flourished that did not also show symptoms of weakness and decay? Was there ever, on the other hand, any personal improvement that did not begin in the honest efforts to see our own faults, or any true revival of morals or piety that did not start in a deepened sense of imperfection? Can we ever hope to make real advancement in education without feeling something of the Socratic sense of ignorance and the religious sense of sin

and error? On the other hand, just in proportion as we become complacent with present attainments, every motive of progress dies in the soul. So must I not add, as the last pathological symptom in pedagogy, smug self-satisfaction with the present, resentment instead of hearty welcome for friendly criticism, which is the state of mind of those who, because they deem themselves perfect, will never become so?

## 2. THE PATHOLOGY OF EDUCATION IN ITS BIOLOGICAL ASPECT.

BY PROFESSOR JOHN M. TYLER, OF AMHERST COLLEGE.

[Read May 13.]

Pathology is at best a dreary subject. To catalogue, classify, and describe a long list of children's diseases certainly seems stale and unprofitable. But, if we ask, What in our modern conditions and system of education tends to increase disease, and what can we do to preserve and improve health? the study becomes profitable and imperative, if not exactly fascinating.

Let us picture to ourselves conditions in New England a hundred years ago. There were no cities. Along the coast there were sailors and fishermen. The population of the interior was almost wholly devoted to farming, scattered in little hamlets over hill-tops and hillsides, wherever one could wring a living from the scanty soil between the ledges. Forests had to be cleared, stones removed, walls built, house and barn erected,—a wilderness changed to a farm. The harvest from the virgin soil was often abundant, but it could be reaped only after long days of the very hardest labor. This work was almost universal. Minister and squire were as proud of their fields and crops as of their sermons or briefs. The boy and girl looked forward to this life from their earliest years. Their hope and ambition was a better farm and larger crops than their fathers and neighbors had produced.

The short term of winter school was only an episode in the life of these children. Their education was gained at home and largely out of doors. Usually the house was thoroughly, if not wisely, ventilated. Through the cracks between the logs, or the holes in the roof, the snow often sifted in upon the beds. The huge fireplace and chimney drew the cold air upon their backs, while it warmed their faces. The cold-air treatment was had everywhere at home.

Every child had his or her tasks. Wood was to be cut, split, and brought in. There was the endless monotony and variety of work about the farm, the garden, and the barns. The number of trades of which they gained at least a smattering is almost appalling. They learned how to seat chairs and make baskets, to mend a harness or to cobble a shoe, to repair tools, wagons, sleds, or anything and everything about the house, to do all sorts of cabinet work and blacksmithing. The girls could spin and dye and often weave. The care of house and garden and of all the men-folk fell upon their shoulders. Every successful farm was a beehive of all sorts of industries and of manual training. It was self-supporting and largely independent.

The pleasures of life were of the same primitive out-of-door kind. There were fishing and hunting, sugar-making in the spring, and huskings in the fall. There were raisings and musters and road-mending.

Only the fittest could survive. Many infants died. Men and women became very tired. They had the eight-hour day for which our laborers clamor. In summer they had two of them in every twenty-four hours,—one in the morning before noon, another after it, before bed-time. But the weariness was mostly muscular. It disappeared after a night's sleep. The monotony of life, the fewness of interests and of relaxations, the sternness and repression of creed and habit, drove many men to drink or to the wildest and most outrageous outbursts. Not a few women became morbid or insane. But our modern disease of nervous prostration was rare. The strain of life fell upon the muscles and the lower and heavier nervous centres. Of what we call brain fatigue or exhaustion there was comparatively little danger.

A life of rude, strenuous, muscular effort, mostly in the open air, resulted in a tough, sturdy race. Their vigor shewed itself very plainly in their exceedingly rapid rate of increase. Says President Walker: "Between 1790 and 1830 the nation grew from less than four millions to nearly thirteen millions,—an increase in fact of 227 per cent., a rate unparalleled in history. That increase was wholly out of the loins of our own people. Each decade had seen a growth of between 33 per cent. and 38 per cent., a doubling once in twenty-two or

twenty-three years." (See Walker, "Restriction of Immigration," *Atlantic Monthly*, vol. 77, p. 824.) Hence a little less than a hundred years ago the crowded New England hive swarmed out in a great westward migration.

This rude and hasty sketch must suffice to recall conditions after the Revolution. Things were not ideal. "Eden wasn't done yet." I, for one, prefer to live in the twentieth century. But the picture has its lights as well as its shadows.

Let us now glance at present conditions. I read that in 1790 a thirtieth of our population lived in towns of more than eight thousand inhabitants, in 1880 nearly a fourth. Between 1790 and 1880 the population of the country increased twelve-fold, that of the cities eighty-six-fold. I suppose fully one-half of the inhabitants of Massachusetts live in towns or cities. I do not care either to praise or disparage city life. The poor often live under terribly unhygienic conditions. They and their disadvantages are numerous. A large fraction of our population has exchanged rural for urban life. This is a fact. A second fact is that many of us, as fast as we can, are exchanging a life of muscular effort and of activity in the open air for a sedentary life of brain labor. The farms are being deserted by our New England stock. Office, desk, store, and teacher's positions are sought with almost feverish anxiety. We avoid, if we do not despise, manual labor. We wish to live by our wits.

Here, again, I neither praise, criticise, nor blame. We are not surprised at the tendency. It will continue. Operatives in many of our factory cities do not wish to have their children receive manual training. They prefer accomplishments which will fit them for business or professional life. But for good and evil we have changed our conditions of life during the last few generations. We have exchanged country for town or city, outdoor life for indoors, a life of muscular activity for a sedentary life of strain upon the youngest, most complex, and least stable centres of the brain.

This strain, which falls mainly upon weakest parts of our nervous system, is nothing short of terrible. Think of present competition and of the complexity of life. Said the brother in prayer-meeting, "It is no fool of a job to lead a Christian life." It is no fool of a job to live at all. Times are so hard

that one is almost compelled "to cheat a little to get an honest living." Remember Professor Huxley's words, that the struggle for comfort is many-fold more cruel than the struggle for existence. Remember the ceaseless fret and worry of modern life.

These great changes in our modes of life, amounting to a revolution, must affect and disturb the working and balance of the organism. The human body has slowly evolved during long ages. Almost every organ, the brain not excepted, owes its development and present powers to the demands and stimuli of the muscular system. These occasioned the development of heart, lungs, and kidneys; and these same demands stimulated the power of our digestive and assimilative tissues. It was motion and sensation, not thought or learning, which laid the foundations of the brain, and which stimulated the development of every centre, except possibly the latest phases of the centres of association. This is as sure as the theory of evolution.

Our internal organs can and will respond to any and every reasonable demand of the muscular system. They have become accustomed to this. It is an inherited habit. Indeed, they need and require these customary motor stimuli to maintain them in the best condition. Without them they weaken, degenerate, and become diseased. Our present mode of life, over-civilized, artificial, and nerve-racking, changes the whole condition. Without the stimulus of abundant open air and exercise, under which they have had their whole ancestral development, the stomach is unable to digest the needed amount of food. We crave concentrated, easily digestible, and stimulating nourishment. We eat large quantities of meat. The system is loaded with albumen. This, with the products of combustion of the nervous system, is thrown upon liver and kidneys. The result is various forms of so-called kidney troubles. Heart and lungs weaken and degenerate and fall a prey to disease for the lack of the same customary and natural stimuli.

During the War of the Rebellion nearly 1,000,000 men were examined as to their physical fitness for service in the army. One of many tables compiled by Dr. Baxter, and based upon the results of these examinations, shows the number per

thousand rejected from different professions and classes. (See Baxter, "Report of Provost Marshal General," Vol. I., Chart XXXIV.) In round numbers, of 1,600 teachers examined, almost three-fourths were rejected; of physicians and clergymen, two-thirds; of public officials, more than half; of laborers and farmers, only a little more than one-third; of sailors, less than three-tenths. Says Dr. Baxter (Vol. I. p. 85), "The chart shows a steady and regular increase of disease as we ascend the so-called social scale, from the unskilled laborer, whose muscular system is his reliance, through the ranks of the skilled artisans and the dealers in merchandise, to the professional man whose brain is exercised almost to the exclusion of muscular action." He adds: "It is not strange that the professions and many skilled occupations, since they do not require very great physical exertion, should show a larger ratio of consumptives, who have been either compelled to a change of occupation or, being the weakly offspring of phthisical parents, have of necessity sought light employments. These remarks apply with equal force to many other diseases, and lead to the conclusion that the mercantile and skilled occupations and professions are not, perhaps, in reality the hot-beds of disease they are generally supposed to be, but rather the asylums for men already affected or predisposed to disease." The explanation sounds somewhat strained in a majority of cases. But the children of men of these classes are, according to either explanation, born of weaker fathers than the children of farmers and laborers. They do not probably inherit any disease directly, but they are born and grow up with a lower vitality and with almost or quite a predisposition to disease.

The higher we ascend in the social scale, the greater is the sensitiveness to pain. What is actually painful to the professional man is hardly disagreeable to the laborer. Rosenbach, with other good physiologists, maintains that this sensitiveness is increased, if it may not be caused, by lack of motor exercise. This hypersensitiveness, the stagnating of the nervous energy in the sensory centres, instead of its escape through the motor nerves, is a most important causal factor in hysteria and other forms of nervous disease or weakness, as well as a symptom and result of the weakening of the nervous

system in sympathy with a lower tone of vitality in the whole body. It is universally admitted, I believe, that sedentary, indoor life with excessive brain labor, acting upon a not over-strong nervous system, results in neurasthenia, nervous prostration, "Americanitis," or whatever you choose to call it, and that the cure for this condition lies in rest, open air, muscular exercise suited to the patient's powers, and in escape from mental strain, and especially worry.

We have thus far noticed the direct results of modern changes in mode of life upon the males. That similar causes have resulted in similar, perhaps more marked, effects upon the American woman, is universally admitted, I believe.

It seems evident that two classes of children in our public schools demand our special attention: 1. The children of men belonging to the business and professional classes. Some, at least, of them are liable congenitally to nervous weakness, if not already suffering from it or from low vitality. They must be guarded and strengthened against this danger. 2. The brighter and more ambitious children of every class. Both these classes will, in all probability, enter the business or the professional career, exposed to the dangers of a more or less sedentary life, and both must be fortified accordingly. A vigorous body and a sound, tough nervous system is absolutely essential to them both.

What can we do for them? The causes of the evil are indoor life, lack of muscular exercise and tone, and excess of brain or nervous work. It has been well said that health comes in through the muscles and flies out through the nerves. One natural and apparently imperative treatment for these children would seem to be (what we should prescribe for their parents) suitable muscular exercise as far as possible in the open air. And this is even more important for the child than for the adult. For it is the stimulus and demand occasioned by muscular exercise which is absolutely essential to the healthy growth and development of the vital organs,—heart, lungs, kidneys, and the brain itself. As Professor Donaldson has shown, the highest centres of thought in the brain develop after, and apparently as a result of, the development of the more precocious and farther advanced sensory and motor centres. Moreover, if the motor centres are not well devel-



oped, the adult becomes an unpractical dreamer, ever, as President Walker has said, "shivering on the brink of action," always planning and hoping, but never realizing. And these motor centres must be developed early, if at all.

The average child to-day needs physical and manual training far more than if living a hundred years ago. But city homes and surroundings actually furnish almost nothing of the kind, the ordinary country home very little compared with what was furnished by the farm. The child begins going to school when about five years old. If he goes to a kindergarten, he begins earlier. This may or may not be best: it is a condition and a fact. With the small families and ordinary surroundings the child is probably better off at school than at home. He will go to school anyway. A century ago the child would have attended school for twelve or at most sixteen weeks in the winter only. Then "Good-bye, books, good-bye, school." Now the school year is nearly or quite three times as long, and we are already planning summer schools to keep the child busy, and to take him off our hands for the rest of the year. During nearly or quite two-thirds of the year he sits three or more hours of the day, perhaps, in an over-heated and probably under-ventilated room.

We have introduced manual training and all kinds of hand work in the schools. This is excellent, but inadequate for the purpose required. Exercise which will promote the growth of heart and lungs must involve the largest possible mass of muscular tissue. Furthermore, in the young child it is better to exercise only those centres which are simple in structure and which mature early. Now the largest masses of muscle controlled by the simplest and most precocious nerve centres are involved in exercises of the trunk and the legs. For this reason the earliest active plays of the child are running, and a little later climbing.

The human brain is a hierarchy of centres of very different function, age, and power. It may, perhaps, be compared to one of those castles or fortress palaces on whose solid ancient foundations rest and rise more modern stories of ever-increasing lightness, grace, and complexity of finish. These have been successively added to meet the needs of a higher civilization. The oldest and simplest and most stable centres of

the brain are those which control the movements of trunk and legs. Those controlling the muscles of shoulder and lower legs are not very much younger. Good physiologists tell us that the centres controlling the movements of hand and finger depend upon these old, fundamental centres almost as a house rests on its foundations. Such fundamental centres, they tell us, are the final seat of resistance to nervous weakness and prostration. These must be strengthened at all cost in the children of parents showing any trace of nervous weakness. Hence the running, kicking, and tussling of children, in the primary and intermediate grades, is more than the ounce of prevention of nervous weakness: it is fortifying the nervous system to resist the strain and rack of business and professional life in our great cities. But these are not the only centres which have to mature during childhood. The sensory centres have had their period of most rapid growth during or soon after infancy. Then, as we have seen, the centres of trunk, leg, and probably those of the upper arm, follow successively. We find that between the ages of seven and eleven or twelve the strength of the lower arm and hand, as shown by the force of hand squeeze or grip, increases far more rapidly than the area of the cross-section of the muscle. This gain in strength over the gain in girth is very rapid at eight. But, while the child of eight is gaining very rapidly in the power of effective effort, he wearies more quickly than at seven or nine. These facts taken together seem to prove that at this age, or a little earlier, the nerve centres controlling these muscles are developing more rapidly than the muscle itself. The motor centres do not cease their development at twelve: they have a second period of acceleration of growth at about fourteen. But at this later date the higher centres of thought are also developing and calling for exercise. We seem to be justified in regarding the years of late infancy and early childhood as forming a period of predominant though not exclusive sensory development. The years between five and nine or ten are predominantly a motor epoch. The higher centres of thought, etc., do not attain much effectiveness until twelve or thirteen or even later, and continue their development until far on in adult life.

If, then, we will take advantage of the natural tendencies

of the child, if we will lay hold of the "favorable seasons of aptitude and inclination," as Locke puts it, we shall devote these years to the strengthening of the physical powers of the child rather than to logical thought or to book study.

This physical development, so absolutely essential to the well-being and success of child and man, can be best promoted by the spontaneous plays of the child. These are but the natural expression of the craving for exercise of organs which need this exercise for their complete and healthy development. Such healthy, wise, and beneficent cravings or instincts should be recognized and satisfied in our system of education.

Hence many of our best and wisest superintendents and teachers believe that a slight change or modification of our present school curriculum would be highly advantageous, if it is not already imperative. This change would make the playground and school-garden of at least equal importance with the desk and recitation, in the education of the lower grades, at least. This does not mean that the child should necessarily spend half of his time in playground, gymnasium, or garden. It means equal emphasis laid upon this part of education, and longer and more frequent recesses and pauses, and more motor activity. How many and how long the recesses should be, and how they may best be used, must be discovered by the experiments of superintendents and teachers. This question is beyond the physiologist or biologist.

The advantages of such a change would be many and great. First of all, in spite of all improvements,—and they are great,—much time is still wasted, and at least some harm done, in attempting to make the child think before its brain centres of thought are mature enough for the work. I believe that most superintendents and teachers would agree that all the child learns before eight or nine could be acquired in one-half or one-fourth as much time after this. The change will improve the child's habits and methods of study. He is now kept at his desk or in class longer than he can profitably apply his mind, especially during his restless motor epoch. Exercise frequently repeated, in small doses and with much variety, is best for the young child's muscles. This is clearly seen in his plays. His mental exercise, especially if involving effort, should be in the same small doses, alternating with rest

or change. It is not the question how much study the child can endure without exhaustion or over-fatigue, but how much will most and best stimulate healthy growth. Less time, used with more enjoyment, would apparently result in more healthy growth, in better habits of study, and in larger acquisitions of knowledge.

Once more, the child in the kindergarten stage, as Burke has shown, is gregarious rather than social. Children at that age seem usually to prefer to have their individual games at the sand piles or in small groups of twos or threes. But in the primary and intermediate grades true social life has at least begun. The adjustment is not made without much difficulty and friction. There is more squabbling and quarrelling, more complaint of unfair play, etc., than at any other age. Yet this learning to adjust one's self to social life is perhaps the most important part of a child's education. It is especially to be emphasized in this day of small families, when the problem of the only child is so prominent and puzzling. The firmest friendships are usually made early, and the "art of making many friends" must be acquired early, if at all. The "twa" who have together "wandered o'er the brae" and "paddled in the burn" have formed the friendship which weary wanderings and wide seas cannot break, as Burns teaches us. And such friendships are formed far more on the playground than at the desk.

Both boy and girl will profit greatly by this change, but the girl needs it even more than the boy. At six, or perhaps at eight, she is little, if any, farther along in her development than he. But the girl of fourteen or fifteen is nearly or quite two years in advance of the boy of the same age. At sixteen or seventeen she has attained her full height, and very nearly her adult weight. In other words, her period of preparation, of storing up material and strength for the pubertal changes, which are so great that we might almost call them a metamorphosis, is two years shorter than in the boy. It is shorter in the city than in the country, for city life promotes early maturity. The pubertal period, the critical and often dangerous time, is shorter than in the boy. The changes take place more rapidly, and this period of her voyage of life is more likely to be stormy. The period from six or seven to ten or

eleven is the time when she should store up the largest possible amount of material and strength against the trying years to come. If the caterpillar does not store up sufficient nutriment, the metamorphosis will be defective or incomplete, and the butterfly weakly, even if it emerges from the cocoon at all. Childhood is almost literally a larval stage. In the case of the girl the opportunity for outdoor air and exercise, and the lessening or mitigation of nervous strain and worry, should be continued through the first year in the high school, which is frequently one of the hardest in her whole education, and which comes at an age when she is most sensitive and least able to endure the strain.

With the natural precocity of the girl, with her period of preparation shortened still more in town and city life, she certainly should have the fullest possible use of these years. She need not be kept in idleness: she should not be crowded or worried. To crowd into these years studies for which she is not yet ready and sufficiently mature, to multiply the examinations, to give rest and recreation by sending her to balls or parties lasting until the wee small hours,—in one word, to squander rather than store up energy during these years is surely one of the most successful methods of race suicide.

I have told you nothing new. These facts are generally known by physicians, recognized and appreciated by most of our school superintendents. I believe that they would generally welcome the change. The great obstacle to a change so beneficent is the prejudice, sometimes the ignorance and thoughtlessness, of the public and parents concerning these questions, on whose answer hangs the welfare of our children and the success of the next generation.

### 3. PATHOLOGICAL ASPECTS OF EDUCATION ON THE PHYSICAL SIDE.

BY WALTER CHANNING, M.D., OF BROOKLINE, MASS.

[Read May 13.]

The criterion of the highest kind of success in life is "adaptability to environment," the latter word being used in the broadest sense, as applied to the sum total of the conditions and influences by which man is surrounded in the modern social organism. To lead him to understand what this environment is, what its opportunities are, and how they may be taken advantage of, should be the purpose of education from childhood to maturity. All this being granted, we still have the question of fitness to consider. Is the pupil himself fit, and is the training that our schools give the pupil of such a nature as to efficiently fit him for the particular situation in life in which he will individually find himself?

In the first place, we are well aware, though perhaps even yet not sufficiently dominated by our knowledge of the fact, that the present social environment is almost a total contrast to that of fifty years ago. "It is impossible," as Dr. Sadler \* has said in a brilliant paper, "to predict the outcome of the stupendous forces, economic and emotional, which are now stirring the world to its depths." In another place he speaks of the quickening sense of new economic opportunity, which, he thinks, does not alone explain the modern belief in the virtues of public education, and adds:—

Does there not also lie behind that belief a more subtle cause? Shall we be wrong in tracing it back in part to something not less fundamental; namely, to an instinctive need of something which may fill the place of those traditional and less conscious processes of social education now in swift decay? The critical movement in thought and the revolu-

\* "The School's Relation to Social Organization," by Michael E. Sadler, *Educational Review*, November, 1904.

tion in economic processes have profoundly shaken the old order of ideas, and with them the various established traditions of social conduct which, in considerable measure, rested upon them and had grown out of them. To the great majority of human beings the firmest kind of education is that which results from the impalpable but steady influence of a stable social environment. The silent pressure of such an environment moulds the thoughts, directs the sympathies, shapes the purpose, upholds the will, and fixes the way of life. Such an environment embodies a long tradition. . . . The disappearance of the old order, in its thousand different forms and implications, was inevitable. Often its disappearance was a boon, but sometimes an incalculable loss. . . . The relative importance of the school has grown through the decay of other forms of virtually educational tradition.

While school training must still be regarded as only one step in the education which fits for life, it is embracing more and more the functions of the home. When we were essentially a country people, play, exercise, and the training and discipline of work or manual labor were a natural part of the home bringing up. Now, as an urban people, all these things are lacking, and the school has unconsciously been compelled to furnish them. We now find play, gymnastics, athletics, and manual training (Superintendent Maxwell's order) assuming every year a more and more important rôle. Whether it wishes to do so or not, the school is required to supplement its intellectual with physical training. As Superintendent Maxwell says,—

The school should provide training for the body, as well as for the mind, because the physical nature is the foundation of all life, including the mental; because, for good or ill, the condition of the body influences the mind, and the condition of the mind influences the body; because without due co-ordination between mind and body no person is thoroughly equipped for the battle of life.

With a change in the social environment have come most marked changes in the pupils themselves. Leaving out racial and peculiar mental characteristics, which cannot be considered here, we find pupils presenting a very large number of

deviations from the normal. Dr. Sadler speaks of some of these pupils as "deteriorates." He says:—

In our educational policy we seem to have reached the point at which it is necessary to discriminate between the needs of the vigorous and of the deteriorate. For the former it is sufficient and prudent to provide an educational system which postulates a good home environment, adequate nutrition, and a healthy physique, and which, therefore, relies with confidence upon methods which stimulate individuality and open the windows of new and varied opportunity. But for the residuum of "deteriorates" a very different and more comprehensive course of treatment seems necessary.

My time is too short to consider how best to deal with deteriorates and defectives. My purpose is to emphasize the necessity of understanding the problem of fitness. It is high time, I believe, to have a more definite knowledge of the physical characteristics of pupils as they enter and pass through the schools. One of the best means of individualizing the child and of getting the clew to his personality is to weigh him in the scale of physical capacity. I do not mean that he should be the subject of a laboratory investigation. The problem should be, "Is the child physically able to do the intellectual work expected of him in the school?" There should be quick and simple tests for determining sight, hearing, nutrition, spinal curvature, co-ordination, and so on. The following illustrations will elucidate my point. If we can trust the eye experts, a vast amount of evil results from eye strain. Dr. George M. Gould, in a paper on the relation between posture and eye strain, says:—

It has been found that from 50 per cent. to 64 per cent. of school children are sickly or below a desirable norm of health. I do not think it an exaggeration to say that the ills of 50 per cent. of these hygienically subnormal children and students are due to the morbid postures compelled by the present false methods of writing and reading. Of the remaining 50 per cent. a full half are directly caused by eye strain. Headache, "weak eyes," *migraine*, anorexia, dyspepsia, and many types of denutrition, spinal curvature, insomnia, "nervousness," many cases of chorea and epilepsy, despondency, and frequent psychic disorders, truancy, immorality, and so forth, almost



any form or kind of functional disease,—all these, and the denutrition that fallows the ground for the incoming of infectious and terminal diseases,—all of these are, or may be, the clear consequences of eye strain."

Scholder, of Lausanne, finds a distinct and increasing ratio between spinal curvature and myopia, or near-sightedness, the percentage of the former reaching 32.4 per cent. in the sixth grade. Dr. Henry W. Kilburn, of Boston, has said, "Any refractive error which causes a growing child to bring the eyes too near the object viewed, and therefore to lean forward too far over the desk, or which causes a tilting of the head to one side, may, in my opinion, cause a lateral curvature." Dr. Allen M. Greenwood has said "that eye strain, with a natural inclination to avoid it, is the cause of much child inattention and apparent backwardness,"—a fact generally recognized, but not given the attention it deserves.

Attention has also been called to the many defects of hearing not easy to recognize, but serious in their results, if not attended to. Drs. Herdman and McBride say that from 3 to 20 per cent. of children examined in the schools have defective hearing, but the proportion in which the defects are recognized is very small. The teachers are naturally impatient at times with inattentive children, and it is especially difficult for them to appreciate the fact that defective hearing may be at the bottom of the trouble. One strong argument for careful physical examination by qualified persons is the impossibility of parents or teachers discovering defects themselves.

The general nutrition of school children is a matter of vast importance, and, while it may naturally vary widely in the limits of what may be regarded as normal, it should be closely watched, as it gives vital indications of what may be expected of the child intellectually. Where the nutrition is manifestly bad, and the cause of the trouble cannot be remedied, it naturally is going to make a very serious difference in what we should expect the child to accomplish. Superintendent Maxwell lays special stress upon the poor nutrition of the children in the New York City schools. He says:—

Education, whether physical or mental, is seriously retarded if not practically impossible, when the body is imperfectly or

improperly nourished. The child with body emaciated, blood thin, and nerves on edge, because he has not enough to eat, grows up stunted in body and mind. What a farce it is to talk of the schools providing equal opportunities for all, when there are hundreds of thousands of children in our city schools who cannot learn because they are always hungry!

He also calls attention to the statement of Prime Minister Balfour, that "the chief burden of perpetuating the race falls upon the poor in urban communities," which is certainly a strong reason for a careful investigation of the physical condition of school children.

Much has been written during recent years about backward or defective children in public schools, and it may be regarded as a well-substantiated fact that at least 1 per cent. of school children fall into this category. The condition is not difficult to recognize, and is often capable of improvement, growing worse, on the other hand, if not properly dealt with. Yet it is a fact that only a handful of this great mass of unfortunate children are taught as they should be. Inadequate efforts have been made in Boston, New York, and Philadelphia to start special classes; but so far school authorities have been unable or unwilling to do more than make the smallest kind of beginning. This hesitancy to perform a manifestly public duty seems to be, to some extent, due to timidity on the part of school authorities and a false pride in parents, who do not like to be told that their children are a little duller mentally than the average. In Boston, with upwards of ninety thousand children, special classes should be provided for nine hundred. In New York, where there are between six and seven hundred thousand pupils, there should be special classes for between six and seven thousand children. It is incumbent on those who understand the magnitude and seriousness of this question to advocate the necessity of special classes. There is certainly no more pathological aspect of education than the mixing of so many different kinds of defective children with normal children, and expecting them to accomplish similar tasks with similar results.

I have not endeavored to deal with the question of what pupils, when they leave school, are expected to do in life.

The changes in social conditions have brought new kinds of occupations, and on this account many changes in educational methods have been necessitated, and, no doubt, will continue to be made as time goes on. This part of the question I have not time to more than allude to in passing; but it is obvious that the question of the health of pupils becomes each year of increasing importance. The whole subject of school and personal hygiene must be better understood. It should be taught in medical schools, with the idea of equipping a certain percentage of physicians for the particular work of school inspection. This brings me to the point of how the simple tests above spoken of can be made. I think they should be in the hands of medical inspectors. We have had in this State for some years an efficient corps of these men, who have examined pupils to ascertain whether or not they presented indications of contagious or infectious diseases. But their work has usually stopped at this point. They should, of course, go much farther, and be able to examine each child as it enters the school, as well as at later periods, with an idea of discovering and correcting any defects that may exist. It is easy to do this in the beginning, when there is ample time and prevention is of the first importance. I would not undertake to say that the opinion of Dr. Gould, that over "50 per cent. of school children are sickly or below a desirable norm of health," is correct. What a "desirable norm of health" may be is naturally a matter of personal judgment. Practically, it is not precisely the same for any two persons. Each individual must be examined by himself, and considered as an entity or separate problem.

In this age of individualization each member of society, while he is rightly one of many, must be successful in what he achieves through his own efforts; and the earlier and more definitely it is known what he has in him the better he will accomplish the desired end. Objections are always easy to make, and many teachers will say that the defects of children are exaggerated. Others will say that it will be difficult to make a careful examination of all school children. These objections should have due weight, but they do not offset the immense gain there would eventually be to society if each child in the schools could be individually so differentiated that such ca-

capacity as he possessed, both mental and physical, could be ascertained as a fact, and not be a matter of speculation or uncertainty, and then be made the basis of helping him to realize the best in him, and thus adapt him to his environment. *Preventive hygiene* as a vital factor in education will materially aid in accomplishing the desired result.

#### 4. SPECIAL EDUCATION FOR BACKWARD CHILDREN.

BY ARTHUR C. JELLY, M.D.

[Read May 13, 1905.]

I have been asked to describe briefly the methods of special education which are employed in the public schools of Boston. The need of a thorough investigation of the capacity of children is emphasized, on the one hand, by the hindrance which a stupid child creates in the ordinary class, and, on the other hand, by the fact that a sub-normal mental capacity seems to form a basis for the most striking failures of corrective and reformatory measures. It seems probable that from 5 to 10 per cent. of the ordinary city children in the public schools will fail to receive much benefit from ordinary grade work. This year there are in operation in Boston sixty-eight ungraded classes and seven so-called special classes (that is, for mentally deficient children). These represent an attempt to meet the needs of these sub-normal or exceptional children. In the ungraded or "coaching classes," as they are sometimes called, it is expected that ordinary methods, applied very carefully, will improve very dull and backward but otherwise normal children, as well as those foreign-born children whose chief trouble is with our language.

In the so-called special classes the need appears to be not only for much individual attention, but also for methods of the more objective sort by which the senses are trained and the hand and eye are taught to work together. Reference to classes of this sort is made for the first time in the superintendent's report of March, 1900. It seems proper at this point to mention the fact that the man who initiated this movement here appreciated not only the value of such classes, but also the need of careful attention to details to insure their success. He selected teachers who had proved their capacity in ordinary teaching, and he succeeded in providing for them an

opportunity to study special methods in a large institution school. By special arrangements the seven teachers who are now engaged in this work have been instructed in wood-work, and are now being taught to model in clay, in order that they may instruct their children. A fine devotion to the work prevails, and is constantly being exhibited outside the school-room. Two of these teachers went to England last summer and visited classes in London, in order to learn what they could of the work there. Another teacher has worked out very carefully a course in weaving which is proving very useful.

The first teacher was appointed November, 1898, the second in December, 1899, the third in 1901, the fourth in 1902. Three other classes were established in 1902 and 1903. None have since been added because of evident lack of money to apply in such work, though the present superintendent is in full accord with the movement. And, while we regret that the work is not extended somewhat each year, we have recognized that very likely this temporary halt might be turned to permanent advantage, since it gives an opportunity for a more prolonged study of certain methods in individual cases. Pupils for the first three classes were selected by the teachers, who took charge of them at once. It was hardly necessary to examine these children thoroughly to become convinced that they were too defective to profit much by any public school instruction; and the same remark holds true, though to less extent to-day. The superintendent soon became convinced that medical judgment was desirable in connection with the transfers from the public schools to the school for feeble-minded at Waverley, and also in the selection of cases for future classes. In March, 1902, he requested me to examine the cases reported by the teachers; and, as the result of my examinations, the four other classes have been formed. Many additional examinations have been made of children suitable for such training, for whom no provision has yet been made. The first classes fell short of a high degree of usefulness, because they were without signs of movement. It seemed to me that we should attempt to create not only a movement from the lower end of the line toward the institution at Waverley, but also another movement from the upper end back toward the grade classes. The former doubtless appealed to the humane

side of the teachers' nature, but the latter seemed likely to stimulate their interest more decidedly. I am sure that they have been encouraged by both movements, because they could see that they were working to secure custody for those who needed it and a deserved promotion for those who showed increased capacity.

Now there are two serious obstacles to the success of our work: The first is that the institution which the State has provided for these children cannot receive them all, and they continue to obstruct the special classes. Many of us expect, however, that additional provision will be made by the State each year in the near future. The second obstacle to successful classes of this sort is a lack of knowledge on the part of the average public school teacher of the indications which point clearly to feeble-mindedness in a child. I have been surprised at the inability of many teachers to recognize, even after frequent observations, very pronounced cases of mental deficiency. How to remedy this unfortunate state of affairs has puzzled me. I have attempted to examine many children in the presence of the grade teacher, to demonstrate many points of which she apparently had not the slightest conception; and it is encouraging to be able to say that many have shown their cleverness by recommending this year cases for special class work whom they would not have considered suitable a year ago.

Appreciating how slow is likely to be the advance from this method of dealing with the situation, I have planned a circular to be sent to any teacher who thinks she has a child who requires special examination, and for whom she is asked to fill out a certain blank indicating something of the child's attainments and deficiencies (see the annexed blank and circular).

While this circular may do something, I do not expect it will accomplish very much. You will see, therefore, that I am forced to the conclusion that probably the only satisfactory remedy for the situation lies in some instruction during the normal course of the man or woman who is to become a teacher, based upon lectures and observations of the sub-normal child under treatment in classes. The future may determine whether such use of the special classes in the public schools would be judicious. In view of the natural sensitiveness shown by

parents of children of this kind, I am convinced that at present any such move would be inexpedient.

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QUESTIONS TO BE ANSWERED.

1. Name and residence of child.
2. Age.
3. What school grade?
4. How long attended school and in what grades?
5. How much progress has the child made, and in what ways?
6. Is the child obedient? , mischievous? , quarrelsome?
7. Are the habits cleanly? , correct in moral relations?
8. Does the child distinguish colors?
9. What colors does the child know by name?
10. Does the child appreciate form correctly?
11. What is the mental capacity of the child?
  - (a) Observation. (f) Spelling.
  - (b) Imitation. (g) Writing.
  - (c) Attention. (h) Number.
  - (d) Memory. (i) Music.
  - (e) Reading. (j) Special ability, manual or other.

12. In what particular portions of the grade work does the child fail to keep up with the average? In your judgment, what seems to be the reason for this failure? Sometimes the home life or personal habits appear to diminish capacity for school work. While it may not be discreet always to set down here information as to these matters, the teacher may properly convey such information to the doctor privately.

The back of the sheet may be used for answering the above questions.

Teacher's name, Date, School,

SUPERINTENDENT'S CIRCULAR OF 1905.

BOSTON PUBLIC SCHOOLS,  
SUPERINTENDENT'S OFFICE,  
April 17, 1905.

*To the Principals of Districts:*

You are requested to give your attention to the following statement, which has been prepared by Dr. Arthur C. Jelly, for the promotion of the work in behalf of those children who are believed to be suffering from arrested or defective mental development, and to bring the same to the notice of such of your primary teachers as you think may be benefited thereby, to whom copies of this document may be given.

Yours very respectfully,

GEORGE H. CONLEY,  
*Superintendent of Public Schools.*



## SUGGESTIONS FOR TEACHERS OF PRIMARY CLASSES.

In connection with the work of the special classes (for children whose mental capacity is deficient) it seems desirable to correct certain misunderstandings which are often encountered in conversation with teachers, and to establish standards of a more uniform character than those now prevalent by which backward or dull or nervous children may be tested as to their mental capacity. The opinion has been expressed in various quarters that small classes should be established for backward children. This opinion gains support from the following considerations:—

Studies are arranged in our schools so that the needs of the ordinary child are usually well supplied. If he attends school regularly and shows average capacity, he will probably attain promotion each year. If a child is not promoted, the parents are apt to blame the teacher. Is the trouble with the teacher or with the child? If any considerable number in one class fail of promotion, that state of things might indicate that the teacher's work might be at fault. On the other hand, if a child has attended school regularly, and has received proper instruction, but has not earned promotion in a year, it is fair to ask, At what points and in what way is he different from the average? It is unfair to the rest of the class and to the teacher herself to ask her to give much time to any one child. But every one naturally feels sorry for the dull child, and wishes that something might be done to help him along. Very often he is considered wilful, beaten at home and misunderstood at school, when his unsatisfactory conduct results from a lack of ability to pay strict attention and to make clear distinctions. The appearance of the greatest stubbornness among the insane is often strikingly exhibited in states of weakness and mental confusion.

From such considerations as the above it seems clear that the transfer of the unusual child to a special class may be not only for the relief of others, but also for the more humane reason that each child should have a chance in the world.

When a special class is possible, what sort of children should a teacher recommend for it? Among dull children all grades of defect are found. To select only those children who show very marked mental defect is unwise, because public morals and public safety both call for the protection in an institution of these helpless unfortunates, who seldom improve materially in any class of the public schools. On the other hand many cases whose defect is slight may possibly be permanently benefited and so developed as to be capable of doing grade work. This statement makes clear the importance of recognizing the less obvious cases of mental incapacity. Valuable information upon this subject may be obtained from certain medical investigations. A committee in London undertook some studies upon these questions a few years ago, and Dr. Francis Warner published observations upon 50,000 children. His brilliant results have been confirmed by many observers. Dr. Warner considers low nutrition (as indicated by the rapid appearance of signs of fatigue and exhaustion in thin and pale children) "a less frequent factor of mental dulness than

one would naturally expect." Many other observers have reached the same conclusion. Poor surroundings alone do not produce feeble-mindedness. On the contrary, they often stimulate the bright child to such energy as to change the character of the home.

*Class A.*—Certain physical or anatomical signs may be observed in school children which indicate departures from average standards in the development of the body. Such signs often occur in association with mental dulness; but, since the *interpretation* of these signs requires the judgment of a medical expert, it may be sufficient merely to mention their existence. On the other hand, it is important for the teacher to become familiar with the significance of the next group of signs.

*Class B.*—Physiological, functional, or nerve signs. By inspection of the child engaged in certain tasks one may observe how his brain responds when called into action through the eye or the ear, and how it brings into co-ordinate action other parts of the body. Just as the sounds which the doctor hears over the heart indicate to him the action of this organ within the chest, so do these visible signs represent the action of the child's brain. The face may show scowling or grinning or other queer movements of the muscles about the mouth or protruding of the tongue and rolling it about, as is often seen in an attempt to write. Certain positions and movements of the hands, as pulling at a button, and likewise the shifting of the feet, may be said to indicate that the child finds the task difficult for some reason. When the eyes are kept fixed in the head, and move only as a part of it, this may be taken to indicate poor development of the eye mechanism. Certain movements of the eyes point to defective nervous control. The balance of the head and the shape of the back often point to inefficient or improper muscular control. The hands, when extended together in front of the body, often show weakness and lack of co-ordination by improper balance and trembling and twitching movements. Drawing and writing often give the same result. Signs of this class sometimes occur without any other signs and without mental dulness, but they are much more often found in conjunction with the physical signs of Class A and with mental dulness.

*Conclusions.*—From the above it appears:—

First, that certain children need special classes.

Second, that these children, if studied with skill and care, usually show many more signs of defect of one sort or another than do those children who attain the grade standard.

Third, that, since it is generally admitted that it is sometimes impossible for any one to decide a certain kind of case, it is therefore obviously unfair to expect the grade teachers, unaided, to determine exactly a child's mental capacity in a difficult case.

Fourth, that it is equally true, on the other hand, that an examination by teacher and doctor together will often discover evidence that will enable a decision to be reached in a puzzling case.

Fifth, that a little knowledge is often a dangerous thing. No one should ever jump at a conclusion from the presence of any one sign. On the other hand, a conclusion is often warranted by the presence of many

signs taken together, especially where they represent both imperfect structure and disordered function.

Sixth, that, while it is natural and proper that parents should shield their child in every way, it is undoubtedly true that the child seldom gains anything by having his difficulties denied and ignored. Friendly tact and forbearance, as well as firmness, are needed in dealing with these children and with their parents.

Seventh, that many children who show only moderate lack of mental capacity have their defects corrected in whole or in part by judicious training. Therefore, proper special class work is both humane and helpful.

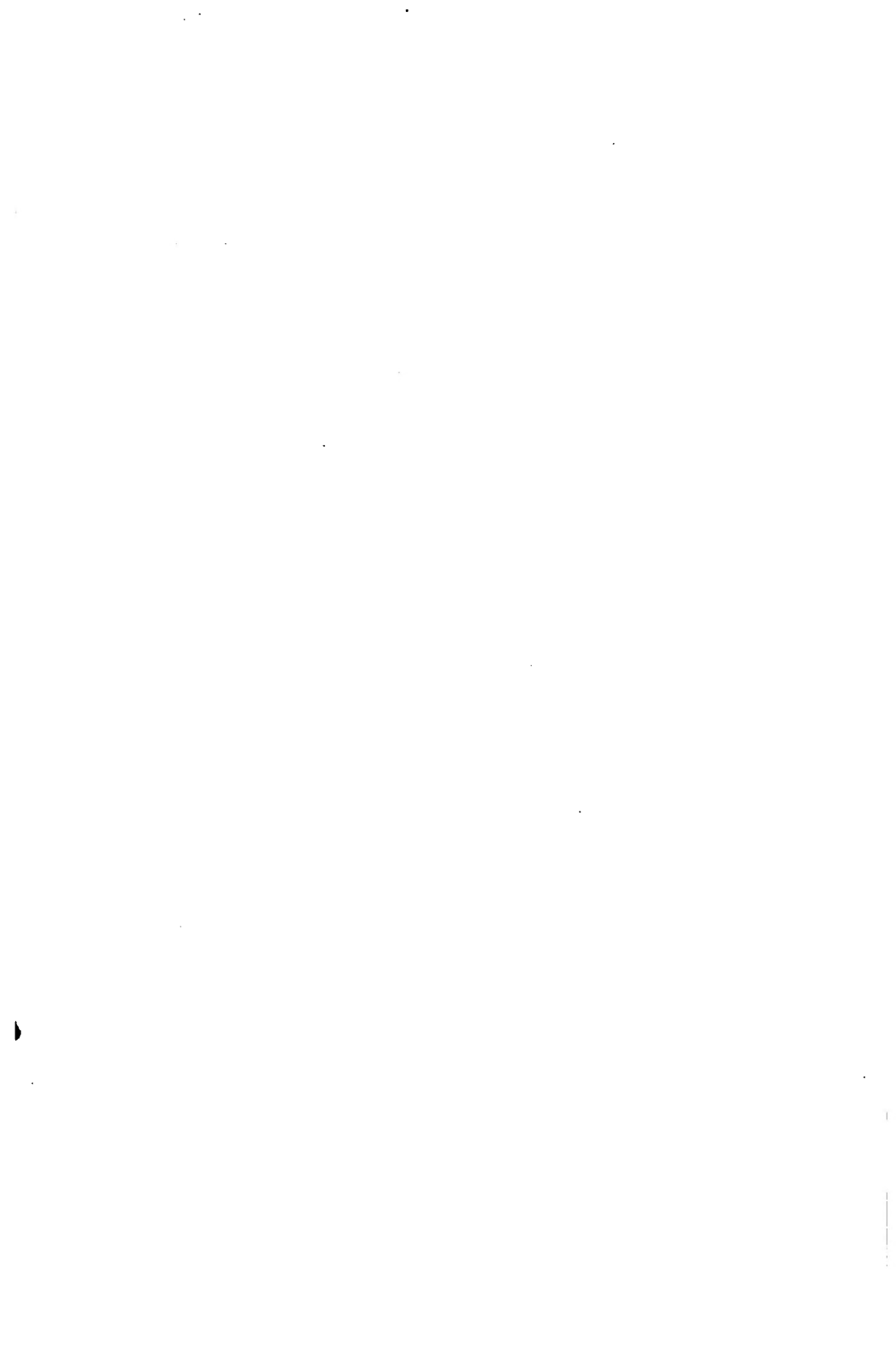


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